

Licensing/Gambling Hearing

To: Councillors Kent, Rose, Smalley

Date: Thursday, 23 November 2023

Time: 10.30 am

Venue: The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

1. Chair

To elect a Member to act as Chair of the meeting.

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

4. Exclusion of Press and Public

To consider excluding the Press and Public during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

5. Minutes

To approve and sign the minutes of the Licensing Hearing held on 2 November 2023.

6. The Determination of an Application by Helen Heraty for variation of a premises licence [Section 35(3)(a)] in respect of Grays Court Hotel, Chapter House Street, York, YO1 7JH. (CYC-18630)

Democratic Services Officer:

Name: Reece Williams

Contact Details:

- Telephone – (01904) 55 4447
- Email - reece.williams@york.gov.uk

For more information about any of the following, please contact the Democratic Services officer responsible for servicing this meeting:

- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

**Ta informacja może być dostarczona w twoim (Polish)
własnym języku.**

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

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LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS

Introduction

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

Preparation for the Remote Licensing Hearing

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's

website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

The Remote Licensing Hearing

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.
15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

ORDER OF PROCEEDINGS AT THE REMOTE HEARING

Chair's introduction and opening comments

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their

representatives), and establish the identity of all who will be taking part.

18. The Chair will outline the procedure to be followed.

19. The Chair will proceed with the order of business on the agenda.

Licensing Manager

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

The Application

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time [*maximum 15 minutes*].

22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:

- Police;
- Other Responsible Authorities;
- Ward Councillors;
- Members of the Sub-Committee;
- The Sub-Committee's legal adviser.

The Representations

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation [*maximum 15 minutes each party*]:

- Police
- Other Responsible Authorities

- Ward Councillors
 - Public representation
24. The Chair will invite the Applicant to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Summaries

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
- Police
 - Other Responsible Authorities
 - Ward Councillors
 - Local residents
27. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
28. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

Determination

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

30. If the decision is made following the conclusion of the hearing, a notice of the decision will be published online as soon as possible and those who were present at the hearing will be informed by email. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representatives (whether in attendance or not) usually within 5 working days of the hearing. There can be no further questions or statements.

31. If the Sub-Committee does not make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democratic Services Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representatives within 5 working days of the decision being made.

The notification will include information about the rights of appeal against the determination made.

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Committee Minutes

Meeting	Licensing/Gambling Hearing
Date	2 November 2023
Present	Councillors Cuthbertson, Mason and Nicholls

7. Chair (10:16am)

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

8. Introductions (10:17am)

The Chair invited those present to introduce themselves; the Sub-Committee Members, the Legal Adviser, the Licensing Manager, the Democratic Services Officer, the applicant: Nicholas Charles West, and the representor: Matt Harris.

9. Declarations of Interest (10:17am)

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda if they had not already done so in advance on the Register of Interests. No interests were declared.

10. Exclusion of Press and Public (10:18am)

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

11. Minutes (10:19am)

Resolved: That the minutes from the Licensing Hearings held on 11 September 2023 be signed and approved as an accurate record.

12. The Determination of an Application by Nicholas Charles West for Premises License [Section 18(3)] in respect of Bison Coffee Bar, 17 Heslington Road, York, YO10 5AR. (CYC-074343) (10:20am)

Members considered an application by Nicholas Charles West for a premises licence in respect of Bison Coffee Bar, 17 Heslington Road, York.

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

1. The prevention of crime and disorder.
2. The 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 papers before it, including the written representations received from local residents.
3. The Licensing Manager's report and her comments made at the Hearing.

The Licensing Manager outlined the report and annexes, and it was noted that there was a rear outside patio area described within the application, and that the premises were not situated inside the Cumulative Impact Area (CIA). It was noted that there were no representations from Responsible Authorities and that additional conditions had been agreed with North Yorkshire Police, as set out in Annex 3. She also drew attention to the one representation made by other parties at Annex 6. Finally, she advised the Sub-Committee of the options open to them in determining the application.

In response to questions from the applicant the Licensing Manger confirmed that she was not aware of any request received from the Applicant for a reduction in the hours

applied for in the Application and that he may wish to address this in his representation.

The Applicant's representations at the Hearing.

The Applicant noted that the use of the rear patio area described in the application was no longer a viable option to be pursued. The Applicant stated he wanted to reduce the times requested in the application for the opening hours and the sale of alcohol in order to bring these in line with the planning permission. The applicant requested a reduction in hours to 6pm Monday-Friday, 9pm Saturday and 5pm Sunday, as opposed to 11pm everyday as indicated within the application and the Licensing Manager's report.

The Applicant made comments towards the representation from Annex 6, stating that Heslington road was not a quiet residential street, and that when he had undertaken observations of the street, he had counted 500 cars per hour, and 360 per hour during three one-hour observations.

The Applicant stated that Deliveroo work with the premises but will only be active from 3:30pm. The Applicant outlined that there were other business within the area such as a pizza shop operating from 3:45pm, and Victoria Hotel operating from 8am-late. The Applicant noted that the layout of the building and its situation in relation to neighbouring buildings was an issue for noise pollution and indicated that all events would be non-amplified.

It was noted that visitors would be reminded to consider neighbours when they leave the premises. The Applicant commented that terms used in the press to label the premises an 'Out-and-out bar' were incorrect and that it also a coffee shop, not looking to serve alcohol until 11am.

The Applicant then stated that he had received good feedback regarding his application from customers saying it would provide a good environment for students to interact. He also stated that it would be good for the local

economy as he employed students from the area to work at the premises.

The Applicant concluded by confirming that the rear patio area was no longer being pursued and was not included within the plans of the premises.

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

- He had experience of holding different types of licences previously.
- He was confident that the closing times of 6pm on Monday-Friday, 9pm on Saturday, and 5pm on Sunday was acceptable.
- All staff would receive training on Challenge-25, and that staff with previous experience within the industry were hired. He noted that documentation of Challenge-25 training would be required. He was not aware of any official challenge-25 training, but ensured he would look into this and would provide verbal training as a minimum.
- Wine, beer, and a small selection of cocktails would be available, as the premises was small it wasn't possible to have lots of variety.

The representations made by local residents.

Matt Harris indicated that he had no objection to the venue, but to the late-license hours.

He stated that Heslington Road was a quiet street in the evening, which is when the licence will be applied, and that he could hear noise on the street from other businesses. He stated that he didn't want the premises to effect peace at home on an evening, and that families with children had recently moved in nearby to the venue without knowing it would be opening. He supported the revised opening hours outlined by the Applicant for: 9am-6pm Monday-Friday, 9am-9pm Saturday, and 9am-5pm Sunday. He concluded by stating the amplification of music and events was an issue and supported the Applicant's proposal of not amplifying any events.

The Representors and the Applicant were each then given the opportunity to sum up.

Matt Harris declined the opportunity to sum up. The Applicant summed up by confirming the revised opening hours previously outlined, that there was no desire to go beyond these times, and that events would be held without amplification.

It was confirmed that the revised hours were for alcohol licensing, and that the premises would still open from 9am before the sale of alcohol was permitted.

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

Option 1: Grant the licence in the terms applied for. **This option was rejected.**

Option 2: Grant the licence with modified/additional conditions imposed by the sub-committee. **This option was approved.**

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

Option 4: Refuse to specify a person in the licence as a premises supervisor. **This option was rejected.**

Option 5: Reject the application. **This option was rejected.**

Resolved: That Option 2 be approved, and the licence be granted for the following activities and timings with modified/additional conditions imposed by the Sub-Committee as set out below:

Activity	Timings
Supply of Alcohol – Both on and off the premises	11:00 to 18:00 Mon to Fri 11:00 to 21:00 Sat 11:00 to 17:00 Sun
Opening hours	09:00 to 18:00 Mon to Fri 09:00 to 21:00 Sat 09:00 to 17:00 Sun

The conditions agreed between the Applicant and North Yorkshire Police set out in Annex 3 of the agenda shall be added to the licence.

The conditions contained in the Operating Schedule shall be added to the licence unless contradictory to the above conditions.

The licence is also subject to the mandatory conditions applicable to licensed premises.

Reasons for the decision:

The Sub-Committee carefully reviewed all the information presented from all parties in light of the licensing objectives and decided to approve Option 2, to grant the licence with modified/additional conditions imposed by the licensing committee, for the following reasons:

- i. The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy;
- ii. The Sub-Committee noted that the premises are not located within an area where a cumulative impact policy applies;
- iii. The Sub-Committee acknowledged the Applicants request for a reduction in the hours applied for;
- iv. The Sub-Committee considered the concerns raised by Mr Harris at the hearing and in his written representation. The Sub-Committee also noted his support of the Applicants request for reduced hours;
- v. The Sub-Committee noted that Applicant had agreed with the Police to the imposition of additional conditions. The

sub-committee considered that the conditions were justified as being appropriate and proportionate for the promotion of the licensing objectives;

- vi. The Sub-Committee were assured by the applicant's previous experience and his responsible attitude that the licensing objectives would be unlikely to be undermined;
- vii. The Sub-Committee was satisfied on the basis of the evidence before it that the prevention of crime and disorder and the prevention of public nuisance objectives would not be undermined.

Cllr Cuthbertson, Chair

[The meeting started at 10:16am and finished at 11:20am].

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Licensing Act 2003 Sub Committee

23 November 2023

Report from the Director – Environment, Transport & Planning

Section 35(3) (a) Application for variation of a premises licence at Grays Court Hotel, Chapter House Street, York, YO1 7JH

Summary

1. This report seeks Members determination of an application for the variation of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-18630
3. Name of applicant: Helen Heraty
4. Type of authorisation applied for: Variation of Premises Licence
5. Summary of application:

The premises is a 12 bedroomed hotel with a cobbled courtyard, extensive gardens and is bounded by the City walls and the Minster.

The variation seeks to extend the terminal hour for the sale of alcohol until 23:30 Sunday to Thursday (currently 22:30) and add late night refreshments from 23:00 to 23:30 (Sunday to Thursday)

Licensable Activity	Existing hours	Variation requested
Late night refreshment – indoors & outdoors	23:00 – 23:30 Fri & Sat 24 hours for hotel residents	23:00 to 23:30 everyday 24 hours for hotel residents
Supply of Alcohol – on the premises	10:00 to 22:30 Sun to Thurs 10:00 to 23:30 Fri & Sat 24 hours for hotel residents	10:00 to 23:30 everyday 24 hours for hotel residents

	Christmas and New Years Eve until 01:00	Christmas and New Years Eve until 01:00
Opening hours	Not restricted	No Change

Background

6. A copy of the application can be found at **Annex 1**.
7. A copy of the current licence is attached at **Annex 2**. The licence was granted on 30 August 2011.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 3**.

Promotion of Licensing Objectives

9. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

General

10. The premises licence is already heavily conditioned and the conditions in 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.

The Prevention of Crime and Disorder

11. No additional measures offered.

Public Safety

12. No additional measures offered.

The Prevention of Public Nuisance

13. No additional measures offered.

The Protection of Children from Harm

14. No additional measures offered.

Special Policy Consideration

15. This premises is not located within the cumulative impact assessment area.

Consultation

16. 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.
17. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

18. North Yorkshire Police have mediated with the applicant who has agreed a modification to the operating schedule which can be seen at **Annex 4**. Therefore, North Yorkshire Police have not made any representations to this application.

Summary of Representations made by Other Parties

19. There have been 5 relevant representations received from other persons. The list of representors is attached at **Annex 5**.
20. The representations are predominantly based on the grounds of the prevention of public nuisance. They state that this objective will be undermined if the application is granted.
21. Copies of the representations are attached at **Annex 6**.
22. A map showing the general area around the venue is attached at **Annex 7**.
23. The mandatory conditions that will be attached to this licence if granted can be found at **Annex 8**. The Legislation and Policy considerations can be found at **Annex 9**.

24. By virtue of s35(4) of the Act, the Committee have the following options available to them in making their decision: -
25. Option 1: Modify the conditions of the licence
26. Option 2: Reject the whole or part of the application. and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

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.

Council Plan

30. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
31. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications, the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan 'One City, for all'.

Implications

32.
 - **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

33. 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.
34. 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

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

Contact Details

Author:
Lesley Cooke
Licensing Manager

Chief Officer Responsible for the report:
James Gilchrist
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report
Approved**



Date

**31 October
2023**

Specialist Implications Officer(s)
Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers:

None.

Annexes:

Annex 1 - Application form and plan

Annex 2 - Copy of current licence and plan

Annex 3 - Overview of circumstances in which entertainment activities
are not licensable

Annex 4 - Agreements made with North Yorkshire Police

Annex 5 - List of other persons - **CONFIDENTIAL**

Annex 6 - Other persons representations

Annex 7 - Map of area

Annex 8 - Mandatory Conditions

Annex 9 - Legislation & Policy



York
Application to vary a premises licence
Licensing Act 2003

For help contact
licensing@york.gov.uk
 Telephone: 01904 552422

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference	Not Currently In Use	This is the unique reference for this application generated by the system.
Your reference	JMS/Grays Court/VPL/017416/00002	You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.
Are you an agent acting on behalf of the applicant? <input checked="" type="radio"/> Yes <input type="radio"/> No		Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name	Helen	
* Family name	Heraty	
* E-mail		
Main telephone number		Include country code.
Other telephone number		
<input type="checkbox"/> Indicate here if the applicant would prefer not to be contacted by telephone		

Is the applicant:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

*Continued from previous page...***Address**

* Building number or name	<input type="text" value="Grays Court"/>
* Street	<input type="text" value="Chapter House Street"/>
District	<input type="text"/>
* City or town	<input type="text" value="York"/>
County or administrative area	<input type="text"/>
* Postcode	<input type="text" value="YO1 7JH"/>
* Country	<input type="text" value="United Kingdom"/>

Agent Details

* First name	<input type="text" value="Popleston Allen"/>
* Family name	<input type="text" value="Popleston Allen"/>
* E-mail	<input type="text"/>
Main telephone number	<input type="text"/>
Other telephone number	<input type="text"/>

Include country code.

 Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
 A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Your Address

* Building number or name	<input type="text" value="37"/>
* Street	<input type="text" value="Stoney Street"/>
District	<input type="text"/>
* City or town	<input type="text" value="Nottingham"/>
County or administrative area	<input type="text"/>
* Postcode	<input type="text" value="NG1 1LS"/>
* Country	<input type="text" value="United Kingdom"/>

Address official correspondence should be sent to.

Section 2 of 18**APPLICATION DETAILS**

Continued from previous page...

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Non-domestic rateable value of premises (£)

Section 3 of 18

VARIATION

Do you want the proposed variation to have effect as soon as possible? Yes No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

- Yes No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Describe Briefly The Nature Of The Proposed Variation

Continued from previous page...

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

Grays Court is a unique hotel in the heart of York situated in the historic Minster Quarter. The hotel has achieved a number of awards and the business represents a significant landmark in York's hospitality scene. The hotel currently holds 3AA Rosettes and is featured in the Michelin Guide.

The hotel has twelve en-suite bedrooms, a cobbled courtyard and extensive gardens bounded by the city walls and York Minster.

The variation application is being submitted to extend the terminal hour for the sale of alcohol until 23:30 Sunday to Thursday inclusive (currently the terminal hour for sale of alcohol is 22:30 Sunday to Thursday inclusive) and to add the provision of late night refreshment from 23:00 to 23:30 Sunday to Thursday Inclusive (currently these days are not licensed for the provision of late night refreshment).

The hotel already has permission for alcohol sales and late night refreshment until 2330 on Fridays and Saturdays and if granted this application would bring the terminal hour for the sale of alcohol and the provision of late night refreshment on other nights of the week into line with the terminal hour on Frldays and Saturdays.

There is no application to extend the hours for the provision of regulated entertainment.

Section 4 of 18**PROVISION OF PLAYS**

See guidance on regulated entertainment

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes

No

Section 5 of 18**PROVISION OF FILMS**

See guidance on regulated entertainment

Will the schedule to provide films be subject to change if this application to vary is successful?

Yes

No

Section 6 of 18**PROVISION OF INDOOR SPORTING EVENTS**

See guidance on regulated entertainment

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

Yes

No

Section 7 of 18**PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS**

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

<i>Continued from previous page...</i>	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Section 8 of 18		
PROVISION OF LIVE MUSIC		
See guidance on regulated entertainment		
Will the schedule to provide live music be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 9 of 18		
PROVISION OF RECORDED MUSIC		
See guidance on regulated entertainment		
Will the schedule to provide recorded music be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 10 of 18		
PROVISION OF PERFORMANCES OF DANCE		
See guidance on regulated entertainment		
Will the schedule to provide performances of dance be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 11 of 18		
PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE		
See guidance on regulated entertainment		
Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
Section 12 of 18		
PROVISION OF LATE NIGHT REFRESHMENT		
Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?		
<input checked="" type="radio"/> Yes <input type="radio"/> No		
Standard Days And Timings		
MONDAY		
Start	<input type="text" value="23:00"/>	End <input type="text" value="23:30"/>
Start	<input type="text"/>	End <input type="text"/>
Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.		

Continued from previous page...

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors
 Outdoors
 Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

Provision of hot food and drink after 2300

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

None

Continued from previous page...

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

24 hours for hotel residents (as existing)

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

- Yes No

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Continued from previous page...

Will the sale of alcohol be for consumption?

- On the premises
 Off the premises
 Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Christmas Eve and New Years Eve until 0100 (as existing)

24 hours to hotel residents (as existing)

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

None

I have enclosed the premises licence

Continued from previous page...

I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Section 16 of 18

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

The premises licence is already heavily conditionalised and the conditions in 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.

b) The prevention of crime and disorder

see box a) above

c) Public safety

see box a) above

d) The prevention of public nuisance

see box a) above

e) The protection of children from harm

see box a) above

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00*

Band E - £125001 and over £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

* Fee amount (£)

315.00

DECLARATION

I/We understand that it is an offence, under section 158 of the Licensing Act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

Ticking this box indicates you have read and understood the above declaration

Continued from previous page...

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/york/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

Approval deadline

Error message

Is Digitally signed

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LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Part 1 Premises details

Premises licence number
CYC - 018630

Postal address of premises:

**Grays Court
Chapter House Street**

Post town: **York**

Post code: **YO1 7JH**

Telephone number: 01904 612613

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Plays
Films
Live Music
Recorded Music
Performances of Dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:

PLAYS

Indoors and Outdoors

Monday 10:00 - 22:30	Tuesday 10:00 - 22:30	Wednesday 10:00 - 22:30	Thursday 10:00 - 22:30
Friday 10:00 - 23:30	Saturday 10:00 - 23:30	Sunday 10:00 - 22:30	

FILMS

Indoors and Outdoors

Monday 10:00 - 22:30	Tuesday 10:00 - 22:30	Wednesday 10:00 - 22:30	Thursday 10:00 - 22:30
Friday 10:00 - 23:30	Saturday 10:00 - 23:30	Sunday 10:00 - 22:30	

LIVE MUSIC

Indoors and Outdoors

Monday 10:00 - 22:30	Tuesday 10:00 - 22:30	Wednesday 10:00 - 22:30	Thursday 10:00 - 22:30
Friday 10:00 - 23:30	Saturday 10:00 - 23:30	Sunday 10:00 - 22:30	

RECORDED MUSIC

Indoors

Monday 10:00 - 22:30	Tuesday 10:00 - 22:30	Wednesday 10:00 - 22:30	Thursday 10:00 - 22:30
Friday 10:00 - 23:30	Saturday 10:00 - 23:30	Sunday 10:00 - 22:30	

PERFORMANCES OF DANCE

Indoors and Outdoors

Monday 10:00 - 22:30	Tuesday 10:00 - 22:30	Wednesday 10:00 - 22:30	Thursday 10:00 - 22:30
Friday 10:00 - 23:30	Saturday 10:00 - 23:30	Sunday 10:00 - 22:30	

LATE NIGHT REFRESHMENT

Indoors and Outdoors

Friday 23:00 - 23:30	Saturday 23:00 - 23:30
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SUPPLY OF ALCOHOL

Monday 10:00 - 22:30	Tuesday 10:00 - 22:30	Wednesday 10:00 - 22:30	Thursday 10:00 - 22:30
Friday 10:00 - 23:30	Saturday 10:00 - 23:30	Sunday 10:00 - 22:30	

Non Standard Timings for Plays, Films, Live Music, and Performances of Dance:
Indoors - Christmas Eve and New Year's Eve until 01:00 hours.
Outdoors - 10:00-21:00 each day only.

Non Standard Timings for Recorded Music:
Christmas Eve and New Year's Eve until 01:00 hours

Non Standard Timings for Late Night Refreshment:
Available 24 hours for Hotel residents.

Non Standard Timings for Supply of Alcohol:
Christmas Eve and New Year's Eve until 01:00 hours
Available 24 hours for Hotel residents.

The Opening Hours of the Premises

Monday to Sunday
24 hours

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:

Name: Mrs Helen Mary Heraty

Address: Grays Court
Chapter House Street
York
YO1 7JH

Telephone number:

Email address: f

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
 - a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
 - a) a holographic mark, or
 - b) an ultraviolet feature.

7. The responsible person must ensure that –
 - a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whisky: 25ml or 35ml; and
 - iii. still wine in a glass: 125ml;
 - b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 –
 - a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - b) "permitted price" is the price found by applying the formula – $P = D + (D \times V)$ where –
 - i. P is the permitted price,
 - ii. D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
 - i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must –

- a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
- a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - b) in respect of premises in relation to -
 - i. any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
 - ii. any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
- a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
 - b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
 - a) the film classification body is not specified in the licence, or
 - b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

General

1. There shall be no 18th birthday celebrations.

Annex 3 – Conditions attached after a hearing by the licensing authority

1. 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.
2. The only licensable activity in the Coach House will be the supply of alcohol to residents of the Coach House.
3. Bottles shall not be placed in the bins between 20:00 hours and 09:00 hours on each and every day.
4. 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.
5. 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
6. Copies of the recordings will display the correct time and date of the recording.
7. 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).
8. Standard one pint capacity, half pint capacity and "highball" tumbler drinking glasses will be strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left.
9. Drinking glasses of any type shall not be allowed to enter or leave the licensed area whilst under the customer's care.
10. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the Premises Licence and the operating times of the venue. Such records shall be kept for at least three years and they will be made available upon a reasonable request from any Responsible Authority.
11. 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.
12. 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.
13. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the area quietly.
14. There shall be no recorded music outdoors.
15. Noise and vibration shall not emanate so as to cause a nuisance at nearby sound sensitive properties.

16. 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.

17. Plays, films and performance of dance externally shall cease at 21:00 hours on every day of the week.

18. Live music externally shall not use electronic amplification and shall cease at 21:00 hours on every day of the week.

19. 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.

20. A direct contact number for the duty manager shall be made available on request to residents living in the vicinity of the premises.

21. A documented procedure for investigating noise complaints received by Grays 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.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

3. Where –

- a) the film classification body is not specified in the licence, or
- b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 4 – Approved Plan

Plan Number's GC 01, GC 02 and GC 03

For and on behalf of
The Director of Communities
& Neighbourhoods

Date: 30/08/2011
16/01/2012 (Transfer)

Licensing Services
Hazel Court EcoDepot
James Street
York
YO1 3DS

Phone: 01904 552512
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing

Home Office – Guidance Issued Under Section 182 of the Licensing Act 2003

Section 16 Regulated Entertainment

Overview of circumstances in which entertainment activities are not licensable

16.5 There are a number of exemptions that mean that a licence (or other authorisation¹⁸) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

- Activities which involve participation as acts of worship in a religious context;
- Activities in places of public religious worship;
- Education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- The rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar)
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g., pool, darts and table tennis);
- Stand-up comedy, and;
- Provision of entertainment facilities (e.g., dance floors).

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
 - A performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - A performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - A performance of amplified live music between 08.00 and 23.00 on any day, in a workplace²⁶ that does not have a licence, provided that the audience does not exceed 500.
 - A performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - A performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the

organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

- Recorded Music: no licence permission is required for:
 - Any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - Any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - Any playing of recorded music between 08.00 and 23.00 on any day, at the non- residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - Any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor, and;
 - Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

- 16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.
- 16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g., in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice and may find responsible authorities a useful source of expert support and advice.

Annex 4

Agreements made with North Yorkshire Police

I have reviewed the application to vary the premises licence of Grays Court Hotel and agreed with the applicant that the below condition will be added to the licence regarding Challenge 25. As this agreement has been made I can confirm that North Yorkshire Police have no objection to the application and as such no Police representation shall be submitted.

- The licence holder will operate a Challenge 25 Age Verification Policy at the premises.

PC 1671 Kim HOLLIS
Alcohol Licensing Officer (York)
Partnership Hub
North Yorkshire Police

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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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: [redacted]
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 [redacted] 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.

[redacted]
[redacted], 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 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'. The details are too light to discern clearly.

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]

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.

Dear Sirs,

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

| www.john-gaunt.co.uk

M: ([Redacted]) F: [Redacted]



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

Premises Licences | Personal Licences | DPS Changes | Temporary Event Notices
APLH Courses | Reviews | Due Diligence | Betting and Gaming | eLearningPlus

For more details on our services please click on the links above.

Partners: Tim Shield (569713) | Michelle Hazlewood (569714)
Christopher Grunert | Jon Wallsgrove | Patrick Robson | Luke Elford
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.

..... 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 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.

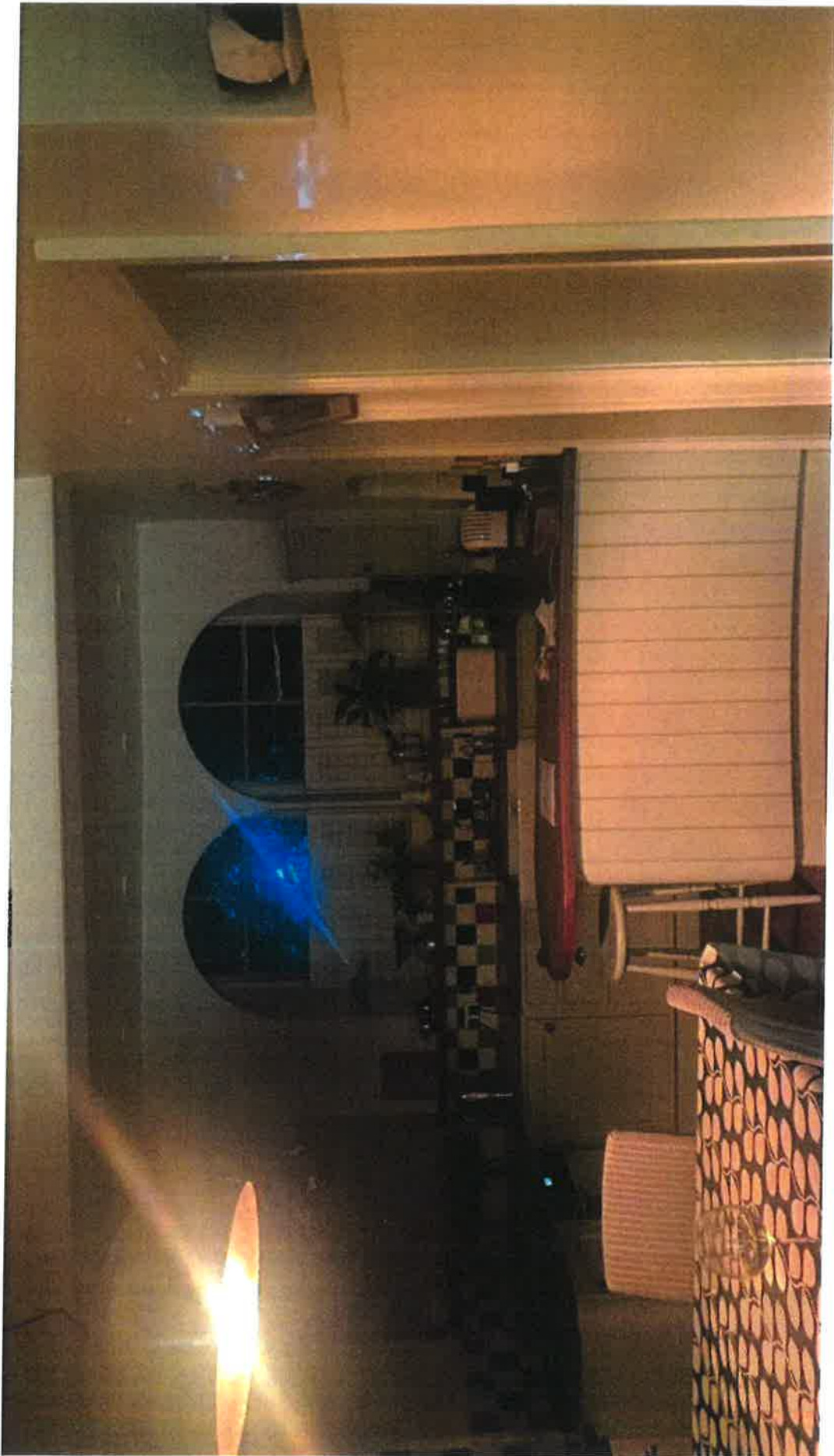
It regrettably remains the case the Applicant has failed to operate Grays Court within the current terms of the licence and should not therefore be rewarded with any enhancement of the licence.

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



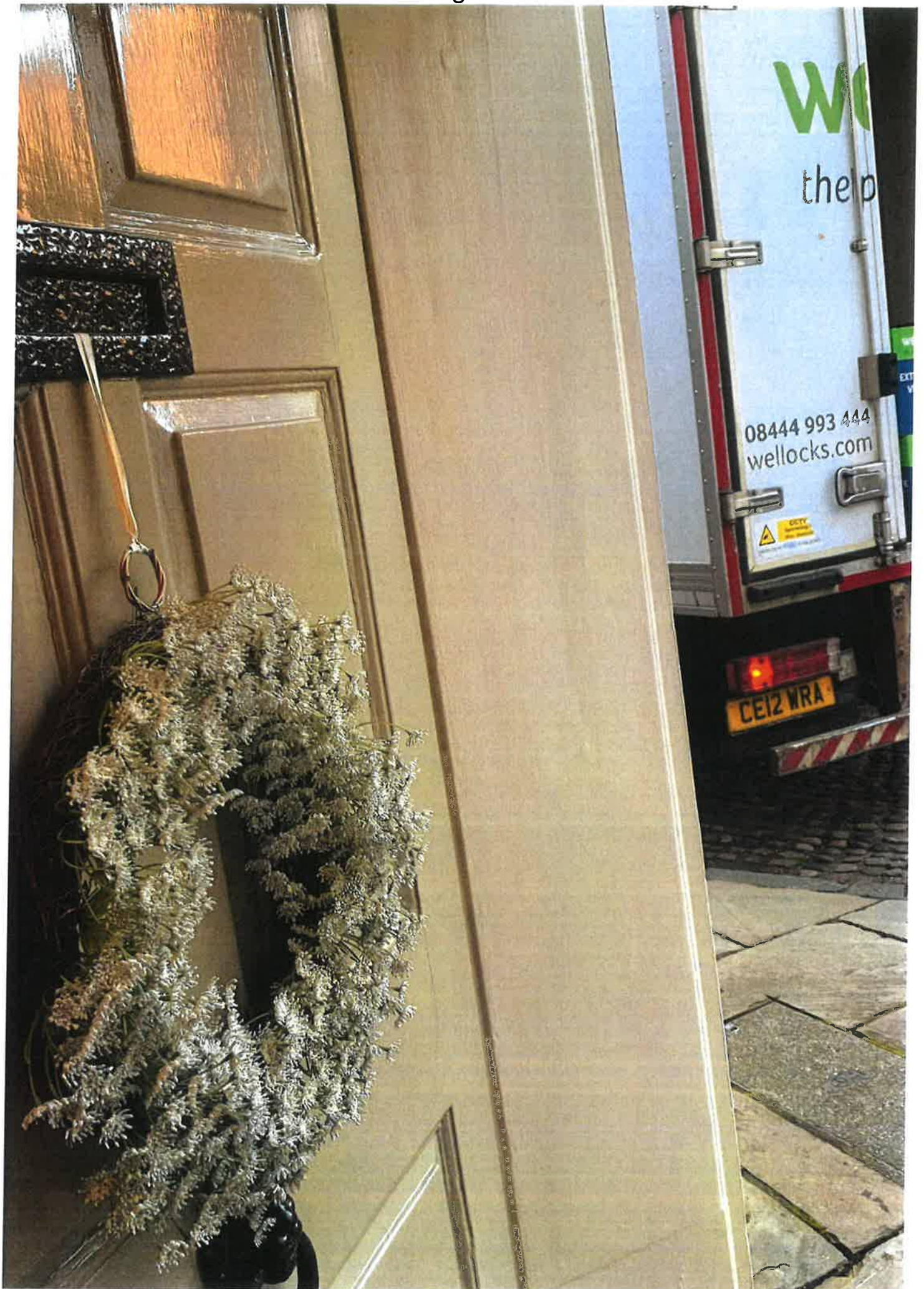


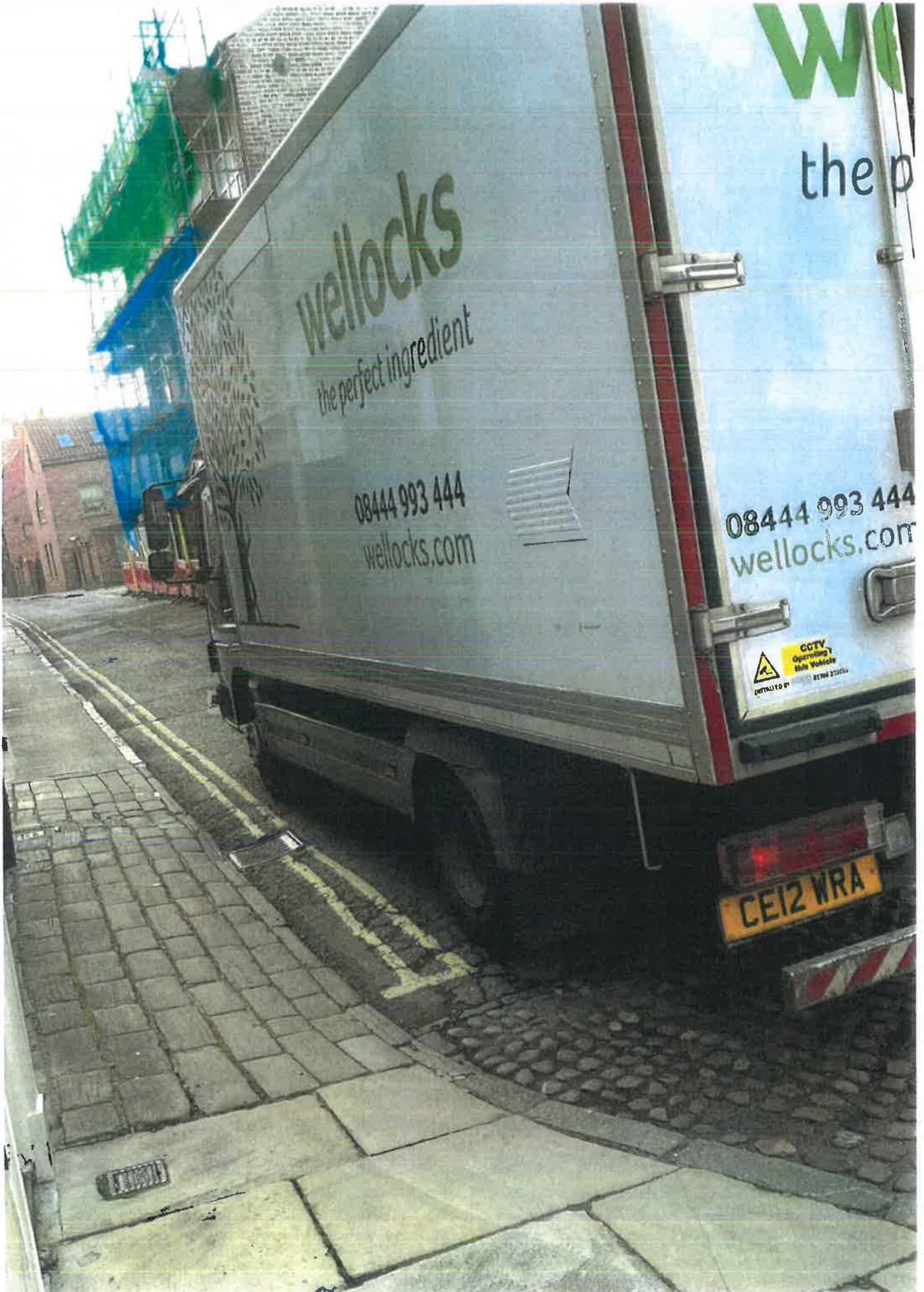
















Chapter House Street
York, YO1 7JH

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,

CS

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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

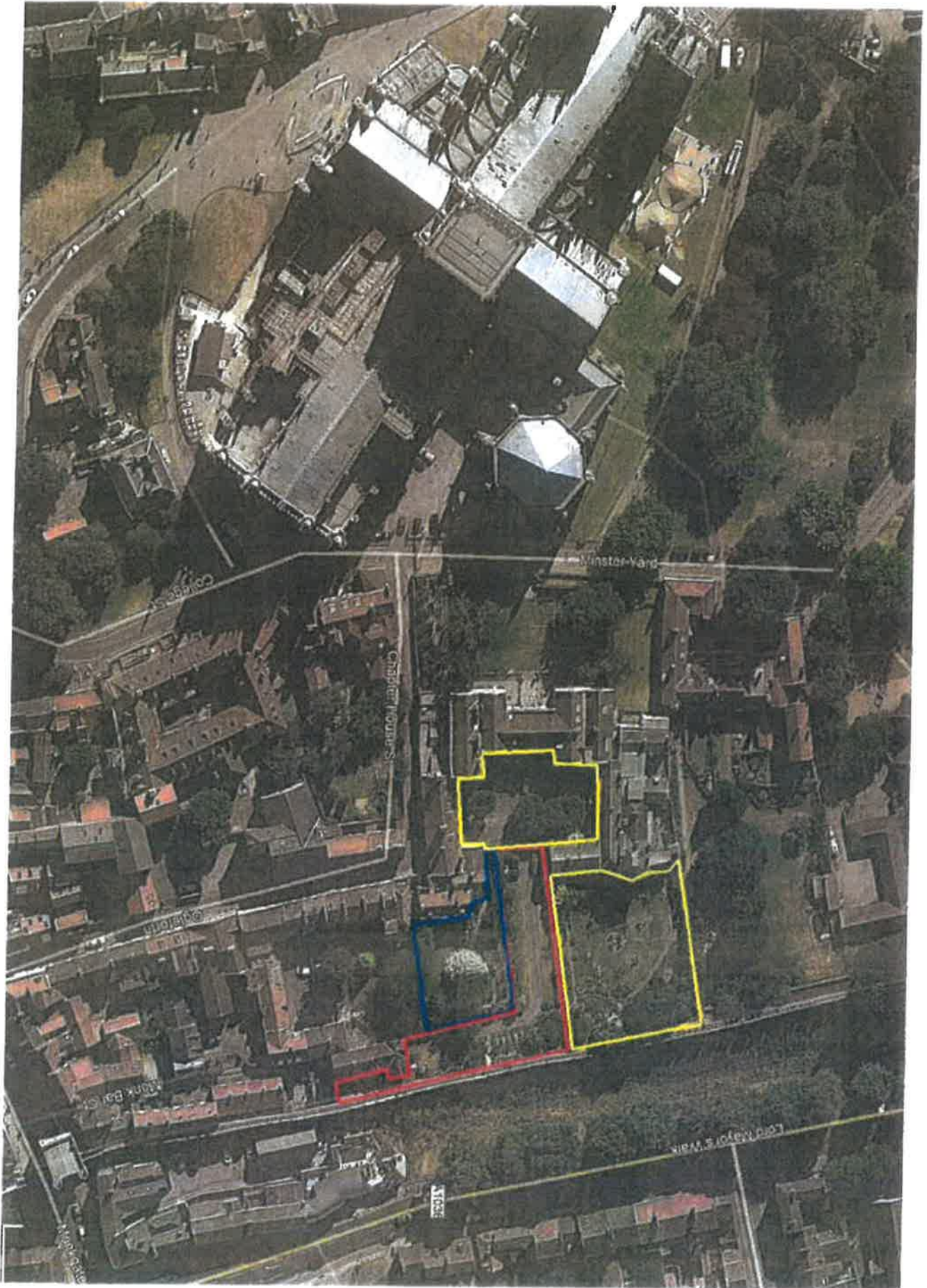
****Copy to all objectors for information****

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,


Licensing Act 2003 Sub Committee
30th August 2011

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

**AI
I**

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

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

Map of area



Date: 23 Oct 2023

Author: City of York Council

Scale: 1:2,500



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MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE LICENSING ACT 2003

MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - (a) At a time where there is no designated premises supervisor in respect of the premises licence, or;
 - (b) At a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
 - (a) Games or other activities which require or encourage, or are designed to require or encourage individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage, or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6.
- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
 - (a) a holographic mark, or;
 - (b) an ultraviolet feature.
7. The responsible person must ensure that –
- (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) Beer or cider: ½ pint;
 - (ii) Gin, rum, vodka, or whisky: 25ml or 35ml; and
 - (iii) Still wine in a glass: 125ml;
 - (b) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) Where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION: ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –
- (a) “Duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “Permitted price” is the price found by applying the formula
– $P = D + (D \times V)$
- Where –
- (i) P is the permitted price,
 - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “Relevant person” means, in relation to premises in respect of which there is in force a premises licence –
- (i) The holder of the premises licence;
 - (ii) The designated premises supervisor (if any) in respect of such a licence, or;
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “Relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
 - (a) Be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) Be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
 - (a) In respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) In respect of premises in relation to -
 - (i) Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or;
 - (ii) Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
 - (a) "Security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and;
 - (b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
 - (a) The film classification body is not specified in the licence, or;
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children

must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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Legislation and Policy Considerations

1. The following provisions of The Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s17 application for premises licence; s18 determination of application for premises licence; s23 grant or rejection of application; ss19, 20 and 21 mandatory conditions; The Licensing Act (Mandatory Licensing Conditions) Order 2010; and The Licensing Act 2003 (Mandatory Conditions) Order 2014.
2. The following provisions of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications
3. The following provisions of the Secretary of State's guidance apply to this application: Section 2 The Licensing Objectives; Section 9 Determining applications; Section 10 Conditions attached to premises licences and club certificates; and Section 14 Statements of licensing policy.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 5.0 Applications for Premises Licences, Club Premises Certificates and Variations; 6.0 Guidelines for Applicants; 7.0 Saturation and Cumulative Impact and 8.0 Licensing Hours.
5. 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.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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