

Meeting	Licensing/Gambling Hearing
Date	26 June 2025
Present	Councillors Cuthbertson (Vice-Chair), Hook and Nicholls
Officers in attendance	Helen Sefton – Senior Licensing Officer Sandra Branigan – Senior Lawyer Lucy Waller – Lawyer

1. Chair (11:06am)

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

2. Apologies for Absence (11:07am)

There were no apologies.

3. Introductions (11:06am)

Introductions were made.

4. Declarations of Interest (11:08am)

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

5. Exclusion of Press and Public (11:08am)

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.

6. Minutes (11:09am)

Resolved: That the minutes from the Licensing Hearing held on 6 May 2025 be signed and approved as an accurate record.

7. The Determination of an Application by Punch Taverns Limited for Variation of a Premises Licence [Section 35 (3)(a)] in respect of The Marcia Grey, 24 Front Street, Acomb, York, YO24 3BZ (CYC-009010) (11:09am)

In considering the application and the representations made, the Sub-Committee concluded that the following licensing hearing objective was relevant to the Hearing:

1. The Prevention of Public Nuisance

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

1. The application form.
2. The papers before it, including the written representations received from local residents and the additional written information received from the Applicant as seen in the agenda and further information received from two representors as shared with all parties prior to the hearing.
3. The Senior Licensing Officer's report and her comments at the Hearing.

The Senior Licensing Officer outlined the report and annexes and noted that the premises had held a licence since 2005. There was a desire to vary the licence upon the development of a rear storage area/kitchen into a pool and darts room which would increase the licensable area. The application stated that

there would be no change to the hours of operation or licensable activities offered.

The Senior Licensing Officer drew attention to the application and plans for the new development in Annex 1 of the agenda, and to the current premises licence and plans in Annex 2 of the agenda.

The Senior Licensing Officer confirmed that the premises was not located within the Cumulative Impact Area (CIA), consultation had been carried out correctly, and the Licensing Manager directed members to the representations made by three local residents at Annex 5, the additional information provided by the Applicant as seen within the agenda, and additional information provided by two representors, as shared with all parties prior to the hearing. She then advised the Sub-Committee of the options open to them in determining the application.

In response to questions from members, the Senior Licensing Officer confirmed that three complaints had been received regarding the premises in the past 12 months, and that these had all subsequently been closed.

4. The Applicant's representation at the hearing

Piers Warne, on behalf of the Punch Taverns Limited (the Applicant), presented their case.

Graeme Robinson, a consultant for the applicant on this scheme was also present to assist Mr Warne in responding to questions from members.

Mr Warne stated that this represented a significant investment in the pub of £120,000. He noted that there were no complaints from responsible authorities and that concerns which had been raised had already been closed off; these had comprised two complaints regarding the outside speakers mentioned by the representors, and an anonymous letter of complaint to licensing officers, which could not be followed up or corroborated, and as such was disregarded.

He separated the issues that did not fall under the Licensing Objectives and he noted the difference in law between "public

nuisance” and “private nuisance” in relation to the adjoining house, and the applicant did not anticipate further nuisance due to the mitigations installed, including insulation and sound proofing, as well as the additional conditions that had been offered.

Mr Warne acknowledged that the main concerns of residents evidenced in the submitted representations was the wall issue and the blocking of access from deliveries, and that noise complaints appeared to be of secondary concern. Nevertheless, the DPS was engaging with residents and sending out follow up letters.

Mr Warne responded to comments made within representations in the agenda from one of the representors regarding deliveries via the roller shutter impacting access on Bowling Lane, explaining that the area discussed had not been used since 18 months prior to the applicant taking on the premises, and it was not a viable cellar. Deliveries were now made with a van parked on the main road. If this were to cause any access issues, or in the event of an emergency, draymen would be present to assist in moving the van. He noted that the Designated Premises Supervisor (DPS) was also actively engaging with residents.

In response to a question about kitchen use, Mr Robinson advised that the pub kitchen had never been used during the period that the Applicant had held the licence or (to the best of his knowledge) during the tenure of the prior licence holder.

In response to a question about live music/karaoke and potential noise complaints, Mr Warne advised that this had not been a licensing issue or an issue where complaints had historically arisen, and that reasonable measures had been taken to mitigate additional noise disturbance to local residents.

Responding to the question of whether Close Circuit Television cameras (CCTV) would be installed in the proposed new licensable area; Mr Robinson advised that the Applicant would be pro-actively installing CCTV cameras with a 30-day timer in the new room.

Mr Warne, on behalf of the Applicant, was then given the opportunity to sum-up and he drew members and officers’ attention to paragraphs 2.1 and 9.12 of the current statutory guidance under section 182 of the Licensing Act 2003; noting

the fact there was no evidence that police and Responsible Authorities had raised any concerns.

5. The representations of local residents at the hearing.

It was noted that no representors were in attendance at the hearing.

Having regard to the application and the relevant representations, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 52(4) that it considered necessary for the promotion of the licensing objectives. Taking into consideration the above evidence and submissions received, the Sub-Committee deliberated the different options available to it and agreed to reject the following options:

Option 1: Modify the conditions of the licence; and for this purpose, the conditions of the licence are modified if any of them is altered or omitted, or any new condition is added. This option was approved.

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

The Sub-Committee's decision was to accept the following option:

Option 1: Modify the conditions of the licence; and for this purpose, the conditions of the licence are modified if any of them is altered or omitted, or any new condition is added.

In approving **Option 1**, the Sub-Committee resolved to modify the premises licence to amend the plans attached to the current licence to increase the licensable area as applied for and to also add three additional conditions as below.

Licensable Activity	Existing	Variation requested
Recorded Music - indoors	10:00 until 00:00 Everyday	No Change
Supply of Alcohol – on & off the premises	10:00 until 00:30 Everyday	No Change
Opening hours	10:00 until 01:00 Everyday	No Change

Additional conditions:

1. Speakers outside shall be used for background music only and will be turned off at 21:00 Sunday to Thursday and 22:00 Friday and Saturday.
2. The DPS/Manager shall develop and implement a dispersal policy to ensure that customers exit the premises quickly and quietly. The dispersal policy will be made available to the police and licensing authority on request.
3. A complaints book shall be maintained at the premises and any complaints by residents shall be logged therein, including date, time, reason for the complaint and outcome/ action taken.

Reasons For the Decision:

The Sub-Committee noted that they are bound to have regard to the appropriate legislation, Guidance and to the Council's own Statement of Licensing Policy.

This application is for the variation of an already established premises licence and seeks only to amend the plans attached to the current licence to increase the licensable area with the creation of a pool/darts room. The variation seeks no change to the hours, operation or licensable activities offered. The Sub-Committee accordingly noted that as the premises already had a licence to sell alcohol, it was only the impact on the Licensing Objectives of the proposed variations to the existing premises licence which could be considered and the determination could not reduce what is already licensed. The Sub-Committee also noted that consumption of alcohol and playing pool or darts are not licensable activities. They also noted that the playing of amplified live and recorded music until 11pm at the premises

constitutes a non-licensable activity due to an exemption under the Live Music Act 2012. However, other noise legislation in the Environmental Protection Act 1990 continues to apply.

The Sub-Committee carefully considered all representations and evidence received both in favour of and in objection to the application. The objectors raised concerns regarding existing noise levels and that this may increase if the variation were approved. Further concerns were also raised regarding access to neighbouring properties whilst deliveries were being made to the premises.

The Sub-Committee also considered the representations made by the Applicant in response to the concerns raised, including the three additional conditions offered by the Applicant. It was noted that no objections had been received from the Responsible Authorities.

Based on all of the evidence presented to it, the Sub-Committee did not find any evidence to justify a refusal of the variation application. The Sub-Committee felt that any further conditions in addition to those offered by the Applicant would not be necessary in order to promote the Licensing Objectives on the basis of the evidence before it.

Having regard to all the material before it, the Sub Committee did not consider there to be evidence that if the variation was granted in accordance with the application that any of the Licensing Objectives would be undermined. Further, whilst acknowledging residents' concerns, the Sub-Committee is limited to dealing with the variation application in accordance with the Licensing Objectives. Additionally, the Sub-Committee felt that some issues raised in objection to the application, such as delivery and access issues, were not directly relevant to the variation application.

The Sub-Committee noted that if evidence of noise nuisance arose from the use of the premises for the licensable activities in future then it was open to any person (including Responsible Authorities and residents) to request a review of the licence under the provisions of the Licensing Act 2003 where there is evidence that one or more of the Licensing Objectives are being undermined. In the event that the premises causes issues of concern the licence, in its entirety, can be considered at that stage and the exemption that allows the playing of amplified live

and recorded music until 11pm can be removed, where the evidence supports it.

Cllr Cuthbertson, Chair

[The meeting started at 11.06 am and finished at 11.38 am].