

## Licensing Hearing

**To:** Councillors Merrett, Moore and Wiseman  
**Date:** Thursday, 19 August 2010  
**Time:** 10.00 am  
**Venue:** The Guildhall

### AGENDA

#### 1. Chair

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

#### 2. Introductions

#### 3. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

#### 4. Minutes

To approve and sign the minutes of Licensing Hearing held on 29 April 2010

#### 5. The Determination of an Application by H. Heraty & J. Edwards for a Premises Licence Section 18(3)(a) in respect of Grays Court, Chapter House Street, York. (CYC-016907).

**If you require any further information, please contact Laura Bootland on Tel 01904 552062 or Fax 01904 551035 or email [laura.bootland@york.gov.uk](mailto:laura.bootland@york.gov.uk)**

**Distribution:**

Members of Licensing Act 2003 Sub-Committee  
Licensing Officer  
Legal Services  
Applicant  
Representors  
Press, Libraries, Council Receptions



## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS**

### **Introduction**

The procedure outlined below will be followed at all Licensing Hearings.

As Licensing Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. Members of the Licensing Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant licensing issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, the Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

**In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned.** In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

### **Representations at Licensing Hearings**

The Applicant, Ward Councillors, and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At any hearing of an application, the Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

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. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to

be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

The Sub-Committee may take into account any documentary evidence or other information in support of the application, representations or notice, either before the hearing or, with the consent of all other parties, at the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection and hear and consider any evidence and argument in relation to it put forward by the Applicant. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

**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 extend or 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 repeated or made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in the written submission. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

Any person behaving in a disruptive manner will be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally.

### **Procedure prior to the Hearing**

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor (*if present*). Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

### **Procedure at the Hearing**

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*],

welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.

3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case *[maximum 15 minutes]*.
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses *[maximum 5 minutes each party]*
  - (i) Police
  - (ii) Other Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.
12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
  - (i) Police
  - (ii) Other Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties
13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.

15. The Chair will invite the Representors (or their representative) in the following order to summarise their case [*maximum 5 minutes each party*]
  - (i) Police
  - (ii) Other Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties
16. The Chair will invite the Applicant (or their representative) to summarise their case [*maximum 5 minutes*].
17. 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 (*if present*) on law and jurisdiction.
18. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

#### **Procedure after the Hearing**

19. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
20. If possible, and for all hearings under:-
  - section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37)
  - section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
  - section 105(2)(a) (counter notice following police objection to temporary event notice)
  - section 167(5)(a) (review of premises licence following closure order)
  - paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
  - paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
  - paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. 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.

21. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant and Representors within 3 working days of the hearing. There can be no further questions or statements.
22. For all other hearings not listed above, if the Sub-Committee is unable to 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 Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

This page is intentionally left blank

## About City of York Council Meetings

### Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

### Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

যদি যথেষ্ট আগে থেকে জানানো হয় তাহলে অন্য কোন অধিকার তথ্য জানানোর জন্য সব ধরনের চেষ্টা করা হবে, এর জন্য দরকার হলে তথ্য অনুবাদ করে দেয়া হবে অথবা একজন দোভাষী সরবরাহ করা হবে। টেলিফোন নম্বর (01904) 551 550।

*Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin terümesini hazırlatmak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel: (01904) 551 550*

我們竭力使提供的資訊備有不同語言版本，在有充足時間提前通知的情況下會安排筆譯或口譯服務。電話 (01904) 551 550。

اگر مناسب وقت سے اطلاع دی جاتی ہے تو ہم معلومات کا ترجمہ میا کرنے کی پوری کوشش کریں گے۔ ٹیلی فون (01904) 551 550

*Informacja może być dostępna w tłumaczeniu, jeśli dostaniemy zapotrzebowanie z wystarczającym wyprzedzeniem. Tel: (01904) 551 550*

### Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to; and
- Public libraries, Council Receptions and the Press get copies of **all** public agenda/reports.
- Applicant
- Representors & the relevant Responsible Authorities

This page is intentionally left blank

City of York Council

Committee Minutes

---

MEETING	LICENSING/GAMBLING HEARING
DATE	29 APRIL 2010
PRESENT	COUNCILLORS MERRETT, LOOKER AND WISEMAN

---

**37. CHAIR**

RESOLVED: That Councillor Merrett was elected as Chair of the meeting.

**38. DECLARATIONS OF INTEREST**

At this point in the meeting Members were asked to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

**39. MINUTES**

RESOLVED: That the minutes of the licensing hearings held on 4<sup>th</sup> January 2010 and 25 January 2010 be approved and signed by the Chair as a correct record.

**40. THE DETERMINATION OF AN APPLICATION BY MR. A CAGLAR FOR A PREMISES LICENCE SECTION 18(3)A IN RESPECT OF PIZZA TIME, 193 BURTON STONE LANE, YORK, YO30 6DG. (CYC- 016859)**

Members considered an application by Mr. A Caglar for the variation of a premises licence, in respect of Pizza Time, 193 Burton Stone Lane, York.

In coming to their decision the Sub Committee took into consideration all of the evidence and submissions that were presented to them and determined their relevance to the issues raised and the licensing objectives. The following were taken into account:

1. The application form. It was clarified with the applicant exactly what hours were being applied for, which were confirmed as follows: Monday to Friday 23:00 to 00:30
2. The Licensing Officers report and his comments made at the hearing. He advised that should the licence be approved, it would be subject to planning consent being granted. Consultation had been carried out correctly with a notice displayed in the premises window. North Yorkshire Police had mediated with the applicant

following the applicant agreeing to the addition of a number of conditions being added to the licence.

3. The applicants representation, including the fact that he wished to open slightly later in order to benefit from late night passing trade and to bring Pizza Time's opening hours in line with a take away situated close by.
4. The representations made by City of York Council's Environmental Protection Unit and Planning Department. Both raised concerns regarding the noise nuisance and impact on the amenity of local residents should Pizza Time's hours be extended. They felt a precedence should not be set in the area, which has relatively few late night establishments.
5. Written representations made during the consultation period.

Members were presented with the following options:

- Option 1 Grant the licence in the terms applied for.
- Option 2 Grant the licence with modified/additional conditions.
- 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.

Members chose Option 2 and amended the hours applied for and added conditions as follows:

1. The hours sought shall be limited to 23:00 to midnight on Friday and Saturday nights only.
2. CCTV will be installed to cover the premises and will include all areas to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced in Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 14 days.
3. 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 premises and area quietly.
4. Upon closing the premises at the conclusion of business, staff will undertake a general litter pick up and tidy of the general area of the premises.
5. Unaccompanied children (i.e. persons under the age of 18 years) shall not be allowed on the premises unless accompanied by a person over the age of 18 years after 23:00.

Note to applicant – Planning consent is separately required before the premises can utilise the agreed hours and the licence can be called in for review at any time.

RESOLVED: That in line with Option 2, the licence be granted.

REASON: To address the representations made.

Councillor Merrett, Chair

[The meeting started at 10.00 am and finished at 10.50 am].

This page is intentionally left blank



---

**Licensing Act 2003 Sub Committee**

19 August 2010

Report of the Director of Communities and Neighbourhood

**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-016907
3. Name of applicant: Ms Helen Heraty & Mr John Edwards.
4. Type of authorisation applied for: Grant of Premise Licence.
5. Summary of application: The nature of the application is as follows: -
  1. To provide regulated entertainment (recorded music, live music, activities like music and dance and facilities for dancing) Sunday to Thursday 08:00 – 23:00 hours and Friday and Saturday 08:00 – 00:00 hours.
  2. To provide late night refreshment Sunday to Thursday 23:00 to 00:00 hours and Friday and Saturday 23:00 to 01:00 hours. For residents 24 hours a day.
  3. To supply alcohol Sunday to Thursday 08:00 – 23:00 hours and Friday and Saturday 08:00 – 00:00 hours. For residents 24 hours a day.
  4. To open to the public Sunday to Thursday 08:00 to 00:00 hours and Friday and Saturday 08:00 to 01:00 hours. For residents 24 hours a day.

**Background**

6. A copy of the application is attached at Annex 1.

**Promotion Of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General: 1) Alcohol will be served ancillary to meals when the café/restaurant is open. 2) A pay bar will be available for pre-booked private events. 3) A pay bar will

be available during opening hours when CCTV is installed in the room containing the bar.

9. The prevention of crime and disorder: 1) Licensable activities will cease at 22:00 hours in external areas. 2) Consumption of alcohol will cease in external areas at 23:00 hours. 3) No 18<sup>th</sup> birthday celebration will be permitted.
10. Public safety: 1) Risk assessments will be carried out that are consistent with the business.
111. The prevention of public nuisance: 1) There will be no amplified music in external areas. 2) Visitors will be reminded that it is a residential area and to leave as quietly as possible.
12. The protection of children from harm: 1) Staff training will be carried out 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. A representation was received from North Yorkshire Police on the grounds of crime and disorder. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted: -
  1. 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).
  2. 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.
  3. Drinking glasses of any type shall not be allowed to enter or leave the licensed area whilst under the customers care.
  4. Documented staff training will be given regarding the retail sale of alcohol and such records kept for at least one year.

5. 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.
6. 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 at least one year.
7. 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 premises and area quietly.
8. 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).
9. At the conclusion of business there shall be a check of the licensable area that covers the Bar Walls to ensure that no glass vessels are left unattended.
10. A standard operating capacity figure of 100 maximum shall be imposed to ensure that the Licensing Objective the prevention of crime and disorder is not undermined.
11. The above capacity figure can be varied upon consultation with the Police and Fire Service for certain special events. Such consultation shall take place at least 14 days prior to the special event and for the purpose of clarity the 14-day notification period shall not include the day of notification or the day of the event.
12. Pre Installation of CCTV - Alcohol will only be served ancillary to a meal when the restaurant/cafe is open for business. With the exemption of the pre-booked private events.
13. Post Installation of CCTV - CCTV will be installed to cover pay bars in the Library Room and the Bow Room. 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. Copies of the recordings will be kept available for any Responsible Authority for 10 days.
17. A representation was received from the City of York Council Environmental Protection Unit on the grounds of public nuisance. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted: -
  1. Recorded music can only take place indoors.
  2. Noise or vibration from the premises shall not emanate, so as to cause a nuisance at nearby sound sensitive properties.
  3. 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 or egress.

4. External live music shall not use electronic amplification and will finish no later than 21:00 on any day.
5. Notices shall be placed on exit doors and staff to 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 15 interested parties listed in Annex 2. Representations from 14 of the interested parties are attached at Annex 3. The representation from the 15<sup>th</sup> interested party raises issues regarding the planning permission appertaining to the premise and how this has a bearing on this hearing. It is included for the benefit of members and is attached at Annex 4.
19. A map showing the general area around the venue from which the representations are focused is 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)”. The planning permission does not include the Coach House.

### **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:

John Lacy  
Licensing Manger

Tel No. 01904 551593

### Chief Officer Responsible for the report:

Andy Hudson  
Assistant Director  
Neighbourhood Services

Report  
Approved



Date 25/06/2010

## Specialist Implications Officer(s)

Head of Legal & Democratic Legal Services  
Ext: 1004

**Wards Affected: Guildhall East**

For further information please contact the author of the report

## Background Papers:

- Annex 1** - Application form
- Annex 2** - List of interested parties
- Annex 3** - Representations from interested parties
- Annex 4** - Representation regarding planning permission
  - Insert – additional info received from applicant.
- Annex 5** - Map showing general area from which representations received
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations