

**Licensing Act 2003 Sub Committee**

**6 September 2018**

Report of the Corporate Director of Economy and Place

**Section 35(3) (a) Application for the variation of a premise licence for Grays Court, Chapter House Street, York, YO1 7JH**

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-018630
3. Name of applicant: Ms Helen Mary Heraty
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows:
  - a) **Extension of existing licensed hours** for all licensable activities for one additional hour to closing times Sunday to Thursday which will bring the hours in line with existing hours for Friday and Saturday:

<b>Licensable Activities</b>	<b>Existing Hours</b>	<b>Proposed Hours</b>
Plays (Indoors & Outdoors)	Sunday – Thursday 10:00 – 22:30 Friday & Saturday 10:00 – 23:30	Monday – Sunday 10:00 – 23:30
Films (Indoors & Outdoors)	Sunday – Thursday 10:00 – 22:30 Friday & Saturday 10:00 – 23:30	Monday – Sunday 10:00 – 23:30
Live Music (Indoors & Outdoors)	Sunday – Thursday 10:00 – 22:30 Friday & Saturday 10:00 – 23:30	Monday – Sunday 10:00 – 23:30

Recorded Music (Indoors)	Sunday – Thursday 10:00 – 22:30 Friday & Saturday 10:00 – 23:30	Monday – Sunday 10:00 – 23:30 (Indoors & Outdoors)
Performances of Dance (Indoors & Outdoors)	Sunday – Thursday 10:00 – 22:30 Friday & Saturday 10:00 – 23:30	Monday – Sunday 10:00 – 23:30
Late Night Refreshment (Indoors & Outdoors)	Friday & Saturday 23:00 – 23:30	Monday – Sunday 23:00 – 23:30
Sale of Alcohol (On premises)	Sunday – Thursday 10:00 – 22:30 Friday & Saturday 10:00 – 23:30	Monday – Sunday 10:00 – 23:30
	<p><u>Non Standard Timings for Plays, Films, Live Music &amp; Performances of Dance:</u> Indoors – Christmas Eve &amp; New Year’s Eve until 01:00 hours Outdoors – Until 21:00 each day only</p> <p>Recorded Music: Christmas Eve &amp; New Year’s Eve until 01:00</p> <p>Sale of Alcohol: Christmas Eve &amp; New Year’s Eve until 01:00 Available 24 hours for hotel residents</p>	<p><u>Non Standard Timings for Plays, Films, Live Music &amp; Performances of Dance:</u> Indoors – Christmas Eve &amp; New Year’s Eve until 01:00 hours Outdoors – Until 21:00 each day only</p> <p>Recorded Music: Christmas Eve &amp; New Year’s Eve until 01:00</p> <p>Sale of Alcohol: Christmas Eve &amp; New Year’s Eve until 01:00 Available 24 hours for hotel residents</p>
Opening Hours	Monday – Sunday 24 hours	Monday – Sunday 24 hours

**b) Amend Condition 1 of Annex 3 – Conditions attached after a hearing by the licensing authority**

To remove the restriction on the use of the L-shaped driveway to allow licensable activities to take place in this area.

**Background**

6. A copy of the application to vary the premises licence is attached at Annex 1.
7. A copy of the existing premises licence is attached at Annex 2.
8. A plan showing the current outside licensed areas is attached at Annex 3.

**Promotion of Licensing Objectives**

9. The applicant considers existing conditions are appropriate for the proposed variation and no additional measures are required.

**Special Policy Consideration**

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

**Consultation**

11. 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.
12. All procedural aspects of this application have been complied with.

**Summary of Representations made by Responsible Authorities**

13. City of York Council Public Protection (Environmental Protection) 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 the representation after mediation with the applicant who

agreed to the following condition being 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 area shall exclude the Bar Walls and the step access to the Bar Walls.

14. The Public Protection representation and agreement is attached at Annex 4.

### **Summary of Representations made by other persons**

15. There were nine representations received from other persons on the grounds that the licensing objectives prevention of crime and disorder and prevention of public nuisance would be undermined if the variation to the premises licence were to be granted. The list of representors is attached at Annex 5. Copies of the representations are attached at Annex 6.

16. A map showing the general area around the venue is attached at Annex 7.

17. 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**

18. There are no planning issues.

### **Options**

19. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-

20. Option 1: Grant the variation of the licence in the terms applied for.

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

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

23. Option 4: Reject the application.

24. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

### **Analysis**

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

### **Council Plan**

30. 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.
31. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **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**

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**Chief Officer Responsible for the report:**

Michael Slater  
Assistant Director Planning & Public Protection.

**Report  
Approved**



**Date** 20/8/ 2018

**Specialist Implications Officer(s):**

Andrew Docherty  
Assistant Director Legal & Governance  
Tel no: 01904 551004

**Wards Affected:** Micklegate

**For further information please contact the author of the report**

**Background Papers:**

- Annex 1** - Copy of application form
- Annex 2** - Copy of existing premises licence
- Annex 3** - Plan showing outside licensed areas
- Annex 4** - Public Protection Agreed Condition
- Annex 5** - List of representors
- Annex 6** - Copies of other representations
- Annex 7** - Map of area
- Annex 8** - Mandatory Conditions
- Annex 9** - Legislation and Policy Considerations