

Meeting	Licensing/Gambling Hearing
Date	23 November 2023
Present	Councillors Kent, Rose and Smalley

13. Chair

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

14. Introductions

The Chair invited those present to introduce themselves; the Sub-Committee Members, the Legal Adviser, the Licensing Manager, the Democratic Services Officers, the applicant: Helen Heraty, her solicitor, Jonathan Smith, his witness, Sarah Czarnecki and the representors: Andy Oates, Kevin Mohan and his solicitor, Christopher Grunert.

15. Declarations of Interest

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.

16. Exclusion of Press and Public

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.

17. Minutes

Resolved: That the minutes from the Licensing Hearing held on 02 November 2023 be signed and approved as an accurate record.

18. **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)**

Members considered an application by Helen Heraty for a premises licence in respect of Grays Court Hotel, 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 that the premises were not situated inside the Cumulative Impact Area (CIA). It was highlighted that the application was to extend the sale of alcohol to non-residents by one hour and to include late night refreshment. It was also 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 five representations made by other parties at Annex 6. Finally, she advised the Sub-Committee of the options open to them in determining the application.

1. The Applicant's representations at the Hearing.

The panel had accepted a request from the Applicant for extra allocated time to present their case, the Applicant was given a total time of 17 minutes 15 seconds.

The solicitor for the Applicant, Jonathan Smith, outlined that the Applicant had never had a licence application appealed, although an application in 2011 was originally appealed to the Magistrates Court until this was subsequently withdrawn.

Mr Smith stated that on 12 August 2023 they had consulted with North Yorkshire Police, Public Health, and local residents regarding their application.

Mr Smith mentioned that the 'L shaped drive' included in previous applications was not included in this one, and that the application was only in relation to a change in hours.

Sarah Czarnecki (Director, Grays Court Hotel) stated that the hotel had changed since their last application in 2018. They had worked to change the perception and profile of the hotel – they used to host more weddings and big groups but more recently hosted fewer guests and smaller groups. Ms Czarnecki then stated that they had won awards since this change, including: Visit York Best Hotel; Best small hotel in York; best restaurant in York; best hotel in Yorkshire; best hotel in England. Mr Smith added that in 2019 (pre-COVID-19) there were 43 functions held, in 2022 there were 15, in 2023 there were 14, and only 6 were booked in as of the time of the hearing for 2024. Mr Smith indicated that if people wanted to book a wedding at Grays Court Hotel now, they needed to exclusively book the whole hotel, which deterred some from booking their wedding there.

Mr Smith noted that they had a good working relationship with York Minister and also leased an edible garden from York Minster.

Mr Smith noted that Grays Court Hotel now served a new menu, and that non-residents couldn't buy drinks after

10:30pm. He stated that although non-residents couldn't order a drink after 10:30pm, a resident could, even if they were sat at the same table, and that an extra hour on licence would help manage this.

Mr Smith confirmed the number of external diners Grays Court Hotel received in previous months as: 51 in August over a period of 15 days when the restaurant was open (from Sunday-Thursday); 37 in September over a period of 12 days when the restaurant was open (from Sunday-Thursday); 34 days in October over a period of 11 days when the restaurant was open (from Sunday-Thursday). 55 external guests were booked in for December 2023 over a period of 9 days when the restaurant was open (from Sunday-Thursday) which was the busiest time of the year. Mr Smith mentioned that these figures resulted in few taxis to the hotel.

Mr Smith noted that the hotel had previously applied for Temporary Event Notices (TENs) to show that they could work under the proposed extra hours without disruption.

Mr Smith referred to a noise complaint made regarding Grays Court Hotel to the Council and noted that the date the complaint referred to was not noise from guests but was noise from the Applicant's family members over Christmas when the hotel was closed. It was also noted that other complaints they had received were concerning the 'L shaped drive' which was not included in this application.

The Applicant then presented a video which was included in the additional information published on 20 November 2023. Mr Smith stated that the video was filmed by a local resident in support of a noise complaint. Regarding the video, Mr Smith stated that the stable block which could be seen was licenced but wasn't open. Mr Smith stated that the person who filmed the video lived behind the red outline and stable block which could be seen on the plans.

Mr Smith then stated that Grays Court Hotel couldn't host entertainment in the garden bar area after 9pm, and that this was unaffected by this application.

Mr Smith stated that Grays Court Hotel only received two taxis in the week preceding the hearing.

Regarding complaints that had been received, Mr Smith mentioned that one of the complaints was concerning deliveries, and that the extra hour included in the application would not affect deliveries; guests were able to take drinks onto the L shaped drive, but this was not encouraged by the hotel; the spotlight mentioned in one of the complaints was positioned over the Applicant's private property and was not related to the hotel.

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

- Grays Court Hotel had hosted 43 wedding pre-COVID-19, and since then had changed their style. They now had more midweek weddings than before as it was easier to hold these booking without disruption to other guests. Ms Czarnecki stated that in order for them to host a wedding, the whole venue now needed booking. It was noted that they hadn't held a disco for 2 years.
- The hotel had reduced the number of guests it hosted and had produced a new taster menu.
- Regarding the complaint referenced on page 49 of the additional information, there was no music recorded outside in April 2022. There was no record of outdoor or indoor music on 29 April, on 30 April there was a post wedding dinner with no entertainment.
- Two complaints were made directly to the hotel since last year: the complaint referenced on page 49 of the additional information was not logged by City of York Council but was received privately by Grays Court Hotel; One complaint was due to a brass band facing towards the house between 2pm and 4pm.
- The maximum capacity of the hotel was: 40 in total for a wedding; 22 in total for the restaurant, and a maximum of 22 could be served on the taster menu; 8 in the Minster room; 10 in the library.
- There was no policy stopping anyone from pre-booking all 40 rooms and staying there themselves.

- TENs wouldn't be needed as much if this application was approved.
 - Guests could not bring their own drinks unless they were left in their room. If a non-resident ordered a drink after 10:30pm they would have to be refused. It was noted that hot food could also not be served.
 - There was no policy stopping residents buying drinks for non-residents.
4. The representations made by Christopher Grunert, representing Kevin Mohan and Ms D. Gawthorpe, who were local residents.

Mr Grunert indicated that it was not uncommon for hotels to have different rules for residents and non-residents. Mr Grunert referenced complaints that had previously been made and mentioned concerns with what could happen at the hotel with the possibility of holding large functions.

Mr Grunert stated that there was a lack of response from the hotel from the public consultation that took place, and that the consultation did not change the application.

Mr Grunert mentioned that a main concern was with the issue of guest dispersal into a quiet and unique area.

Mr Grunert mentioned that the hours included in the application were also included in the application in 2018 which was rejected. Mr Grunert stated that the Applicant had not provided any clarity on what has changed to mitigate an improvement from this, as very little had changed. Mr Grunert stated that there needed to be evidence that issues raised previously were no longer a problem, and that events held had been a nuisance.

Mr Grunert highlighted that the application only affected the rules for non-residents of the hotel, while rules for residents remained the same. He also noted that Grays Court Hotel had not indicated any plans for dealing with complaints. Mr Grunert also noted that his clients' views were not invalidated because Environmental Health had not objected to the application.

Regarding the noise complaint referenced on page 49 of the additional information, Mr Grunert stated that it did not

matter if the noise was made by family members or hotel residents and that the noise still caused disruption.

Mr Grunert highlighted that this application was in regard to non-residents and did not affect residents of the hotel, this only affected people who would be leaving the hotel. He stated that an extension of the hours would lead to a later dispersal of guests.

Mr Grunert stated that the new taster menu implemented by Grays Court Hotel does not offer any reassurance to solve matters that had been raised. He noted that the hotel's new style does not stop them from reverting back to hosting big weddings.

Mr Grunert noted that his clients' opinions and views were not invalidated because North Yorkshire Police and Public Health had not made representations.

Mr Grunert urged the Sub-Committee to refuse the application. He stated that dispersals and arrivals late at night caused noise disruption to local residents, and that this had not changed. Mr Grunert stated that there had been previous noise related issues raised with Grays Court Hotel's use of TENs.

Commenting on the Applicant's statement that the noise being made was from family members, he stated that it didn't matter that the noise didn't come from hotel guests, but that there was still a disturbance.

Mr Mohan stated that he had reported noise disruptions to the council in the past, and that noise disruption was still happening. He mentioned that the hotel had received permission to increase the hotel by 7 rooms, which could hold 14 more people which would increase: traffic, noise, and the number of deliveries. He mentioned that the Hotel could easily revert back to holding discos if this application was approved and could cause more disruption.

Mr Mohan mentioned that the noise had been witnessed by the Development Management Team Leader (Planning) when Grays Court Hotel were taken to a public enquiry. He stated that the Hotel had been allowed to evolve ever since.

In response to questions from the Applicant, Mr Mohan confirmed that:

- He did not see how Grays Court Hotel would limit the number of people who could attend events at 40, when the capacity of the hotel in future could be around 60 people.
- He had not attended the pre-consultation meeting and sent his apologies. He received the invite to the consultation 4-5 days before the consultations and was not offered any future dates.
- He had raised complaints with the council but by the time a member from public protection team arrived following his complaint, the event would have ended.
- He had witnessed shouting in the courtyard was ongoing and occurred at weekends. He had lived there before the hotel where in the courtyard there was no noise, or disruption from cars parked there.
- He had asked for noise monitoring equipment from City of York Council, but it was already being used at the time he needed it.

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

- Disruption started on Mondays from 5am/6am when delivery vehicles entered Grays Court. Sometimes delivery vehicles had been parked in the street obstructed access for residents.
- On Thursdays-Saturdays noise disruption came from taxis and people dispersing the hotel.
- There were signs in the area stating it was a residential area.

5. The Representations made by Andy Oates, the Chapter Clerk of York Minster.

Mr Oates stated that there had been no complaints made since the last hearing from members of the clergy, or from tenants renting from the Chapter House. He believed that the current licence was within the appropriate regime of activities, and he noted that he was concerned about the

lack of rapport between Grays Court Hotel and the Chapter House.

Mr Oates highlighted concerns regarding the extension of hours within the application, stating that later nights on Sundays-Thursdays was disruptive as these are 'school' nights. He mentioned that he had not concerns with an extension to the hours on Friday and Saturdays.

In response to questions from the Applicant, Mr Oates confirmed that:

- Chapter House tenants close by to the hotel had not made any complaints to the Chapter House. No. 1 Chapter House Street was in the process of being rented out as a holiday-let, no. 3 Chapter House Street was currently being rented.
- The gate on Minster Yard was locked each day between dawn and dusk. There was no access to these properties from 7pm from the hotel, but noise disruption was still an issue with these properties.

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

Mr Grunert summed up and stated that this application concerned an extension of hours for non-residents of the hotel, and he stated that he did not believe there had been any change to the nature of the area and the noise related issues. He stated that phrases from the Applicant claiming they do not use the outdoor area at night could not be relied upon and then asked the Sub-Committee to not dismiss his client's views because there had been no representations from Responsible Authorities.

Mr Oates summed up and stated that York Minsters concerns were outlined in their representation. The Applicant summed up and stated that it was uncommon to have a rule limiting the sale of alcohol to non-residents at 22:30, and that this was earlier than the 1964 act which we had moved on from.

Mr Smith noted that Grays Court Hotel could apply a limit on guests at an event to 40 people.

Mr Smith noted that the application was for an extension of hours between Sunday-Thursday, and that the majority of representations made concerns towards noise disruption at the weekend.

He stated that there was a notice on the backdoor asking residents and non-residents of the hotel to be thoughtful and mindful of residents in the area, and that these could be put up elsewhere.

Mr Smith and the Applicant stated that Grays Court Hotel was prepared to commit to a 40-person maximum capacity on events, which they noted was a drop from the possibility of 60-80 people.

Mr Smith noted that there had been a reduction in the number of complaints they received, and that there were many guests who leave after their meal and do not stay late. He also mentioned that many guests waited for taxis inside the hotel.

Mr Smith highlighted that there had been no representation from North Yorkshire Police or from Public Health, and that the hotel was not situated within the Cumulative Impact Area (CIA).

Mr Smith stated that their application was refused in the past as they had received more complaints, they held more events, hosted live music acts and use of the driveway – it was stated that there were concerns of the proximity of the driveway to representors' properties and that this was not an issue for this application. Mr Smith noted that they had been running functions for the past two years without documented complaints.

In response to final points of clarification raised by the Sub-Committee the Applicant confirmed that:

- A maximum capacity of 40 people (excluding staff) had been in place since the COVID-19 pandemic, and that fewer weddings are held at the hotel now. Ms Czarnecki confirmed that this capacity only related to events, and the maximum capacity for dinner reservations was smaller.

- Non-residents were not allowed into the hotel after midnight, and there was security on the doors from this time. The licence for residents of the hotel was 24/7.
- Mr Smith stated that the Applicant would not contest the condition of having a 40-person capacity added to this application for the extension of hours, or for the original hours.
- All events could be covered by TENs because events were not held often. Managing all future events via TENs would limit the number of events the hotel could hold.
- The hotel had won the following awards since their last application was rejected: Best Hotel York 2019-2023, Visit York Restaurant, Visit Yorkshire 2019-20, Visit England 2020.

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

In approving Option 1, the Sub-Committee granted the licence for the following activities and timings in the terms applied for,

with the following conditions added by the Sub-Committee as set out below:

Activity	Timings
Supply of alcohol –on the premises	10:00 to 23:30 every day 24 hours for hotel residents
Late night refreshment – indoors and outdoors	23:00 to 23:30 every day 24 hours for hotel residents

The conditions agreed between the Applicant and North Yorkshire Police set out in Annex 3 of the agenda and the conditions agreed between the Applicant and Public Protection numbered 1, 2, 4 and 5 as set out in Annex 4 of the agenda shall be added to the licence.

The following conditions shall also be added to the licence:

- The licence holder will operate a Challenge 25 Age Verification Policy at the premises.
- The maximum capacity for any event or function taking place on the premises shall not exceed 40 persons excluding staff.

Save as varied above, the existing conditions on the licence shall apply in all respects.

The varied licence is subject to any relevant mandatory conditions.

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 note that this application is for the variation of an already established premises licence and they are bound to have regard to the appropriate legislation, Guidance and to the Council's own Statement of Licensing Policy.

In effect, this variation seeks only to extend the hours of the licensable activities and the days of operation, with the insertion of a condition concerning Challenge 25. It does not seek to remove any of the conditions already imposed on the premises licence and the licensed area continues to exclude the L-shaped driveway.

The Sub-Committee noted the scope of the variation applied for and that as the premises already had a licence to sell alcohol, it was only the impact of the proposed variations to the premises licence which could be considered.

The Committee gave very careful consideration to the submissions by the Applicant and to the concerns raised by the objectors.

The Sub Committee carefully considered the representations made by the residents relating to public nuisance, with particular regard to concerns about noise disturbance due to the close proximity of the premises to their homes in this quiet historic location of York.

The Sub-Committee also considered the representations made by the Applicant in response to the concerns raised. It was also noted that Public Protection did not object and that the police had agreed with the applicant an additional condition to be added to the proposed variation to the licence.

The Sub-Committee was sympathetic to the concerns expressed by the residents but, having very carefully considered all of the evidence before it, it ultimately came to the conclusion that at this point in time the balance of evidence did not justify refusing the variations sought. It was satisfied that the condition agreed by Police regarding Challenge 25 and the additional condition offered by offered by the Applicant at the hearing for a 40-person maximum capacity were appropriate and proportionate to deal with the relevant concerns raised by the

proposed variation. The Sub-Committee did not find any evidence to justify a refusal of the variation application and it was felt that further conditions would not be necessary in order to promote the licensing objectives on the basis of the evidence before the Sub-Committee.

The Sub-Committee advises local residents to report any incidents to Public Protection as well as keeping written records of any concerns.

It was noted that the Licensing Act 2003 has a key protection for communities that allows at any stage, following the grant or variation of a premises licence, a Responsible Authority or 'other persons', such as a local resident, to ask the Licensing Authority to review the licence if they consider that one or more of the licensing objectives are being undermined.

Councillor Rose, Chair

[The meeting started at 10.42 am and finished at 1.12 pm].