

COLCHESTER BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

26 February 2016

MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 26 February 2016 at 10.00am in the Council Chamber, Colchester Borough Council, Town Hall, High Street, Colchester

Present: - Councillor Gamble
Councillor Lilley
Councillor Martin for Councillor Fairley-Crowe

1. Membership

RESOLVED that Councillor Lilley be appointed Chairman.

2. Declarations of Interest

Councillor Gamble (in light of the fact that he known Mr Baird-Murray from his work in the Magistrates Court) declared his non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure 7(5).

3. Minutes

RESOLVED that the minutes of the meetings held on 22 December 2015 and 15 January 2016 were approved as a correct record.

4. Licensing Application

The Head of Professional Services submitted a report in respect of the following application which had been made in accordance with the provisions of the Licensing Act 2003, for a new premises licence for -

- The Pavilion, 20-21 Middleborough, Colchester

In Attendance

Mr A Afzalnia, applicant
Mr J Cannon, Counsel for the applicant
Mrs L Bland, instructing Solicitor

Mr J Ruder, Licensing, Food Safety Manager
Mrs S White, Licensing & Committee Co-Ordinator
Mrs A Ozono, Legal Services

Mrs E Lowrie, Local resident
Mr J Baird-Murray, Local resident
Mr A Baines, Colchester Civic Society

The Chairman opened the meeting and invited the parties present to address the Sub-Committee on the matter of the meeting's adjournment to consider additional information that had been submitted. The applicant had circulated an additional bundle of information in advance of the hearing and a further two bundles at the meeting. The Chairman was minded to adjourn the meeting to enable all parties to give proper consideration to the additional information. It was also noted that the Licensing Authority's representative was unable to attend the hearing due to ill health and that a substitute was not available to present the Authority's case.

Mr Cannon addressed the Sub-Committee on the matter of the adjournment and suggested that the additional material could be properly considered if the meeting was adjourned for an hour. If the Sub-Committee was minded to take longer, the applicant was prepared to withdraw the additional information. On the matter of the absence of the Licensing Authority's representative, Mr Cannon noted that the Licensing Manager was present and that he could outline the Authority's position in place of Mrs Harrington.

Mr Baird-Murray addressed the Sub-Committee and expressed his concern at the circulation of additional paperwork at the hearing.

The Sub-Committee withdrew to consider the representations that had been made to it.

RESOLVED – that the meeting be adjourned to 11 March, or a date to be determined as suitable for all parties, to enable proper consideration to be given to the additional information circulated.

Reason for the determination

The Sub-Committee did not consider that an hour was sufficient time in which to give proper consideration to the additional information which had been circulated. It noted the offer to withdraw the information but considered that the applicant should be able to make a full presentation on its proposals; having submitted the additional information, it should be considered in the interests of the applicant and the public. The Sub-Committee noted Counsel's view that Mr Ruder, who was present at the meeting, could substitute for Mrs Harrington and present the Licensing Authority's case. Consideration was given to the fact that the Authority was an objector and in accordance with the Section 182 Guidance Mr Ruder was in the hearing in his capacity as an advisor to the Committee; it would be totally inappropriate for him to speak on behalf of the Authority as an objector. The position of the Authority as objector and that as advisor to the Committee must be kept separate.