

# Licensing Sub- Committee Hearings

**Grand Jury Room, Town Hall  
19 July 2013 at 10.00am**

The Licensing Sub-Committee hears and determines applications made under the Licensing Act 2003. This includes licensing the sale of alcohol and the provision of a variety of licensable activities such as recorded music, stage plays and the showing of films.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings with the exception of Standards Committee meetings.. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices or at [www.colchester.gov.uk](http://www.colchester.gov.uk) .

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone (01206) 18001 followed by the full telephone number you wish to call, and we will try to provide a reading service, translation or other formats you may need.

## Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

## Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester  
Telephone (01206) 282222 or textphone (01206) 18001 followed by the full telephone number  
you wish to call  
e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)  
[www.colchester.gov.uk](http://www.colchester.gov.uk)

## **Licensing Sub-Committee Hearing Procedure for Hearings under the Licensing Act 2003**

- (1) All questions and statements will be directed through the Chairman.
- (2) The Chairman will at the beginning of the Hearing explain to the parties the procedure to be followed and shall consider any request made by a party for permission for another person to appear at the Hearing.
- (3) The Hearing shall take the form of a discussion led by the Council's representative.
- (4) Cross examination shall not be permitted unless the Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may be.
- (5) The Chairman of the Sub-Committee may require any person attending the Hearing who in his opinion is behaving in a disruptive manner to leave the Hearing and may:
  - (a) refuse to permit that person to return, or
  - (b) permit him to return only on such conditions as the Sub-Committee may specify.

Provided that any such person may before the end of Hearing submit to the Council in writing any information which they would have been entitled to give orally had they not been required to leave.

- (6) A party who wishes to withdraw any representations they have made may do so:
  - (a) by giving notice to the Council no later than 24 hours before the day or first day on which the Hearing is to be held, or
  - (b) orally at the Hearing.
- (7) The Sub-Committee in considering any representations or notice made by a party may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the Hearing, or with the consent of all other parties, at the Hearing.
- (8) The Sub-Committee shall disregard any information given by a party or any person to whom permission to appear at the Hearing had been given which is not relevant to:
  - (a) their application, representations or notice(as applicable) or in the case of another person, the application representations or notice of the party representing their appearance, and
  - (b) the promotion of the licensing objectives or, in relation to a Hearing to consider a notice given by a chief officer of police, the crime prevention objective.
- (9) If a party has informed the Council that he does not intend to attend or be represented at a Hearing, the Sub-Committee may decide to proceed with the Hearing in his absence.
- (10) If a party has not informed the Council that he does not intend or be represented at a Hearing and fails to attend or be represented at a Hearing, the Sub-Committee may:
  - (a) where it considers it to be necessary in the public interest adjourn the Hearing to a specified date ( notice being given forthwith to the parties concerned of the date, time and place to which the Hearing has been adjourned), or

(b) hold the Hearing in the party's absence

Where the Sub-Committee agrees to hold the Hearing in the absence of a party, the Sub-Committee shall consider at the Hearing the application, representations or notice made by that party.

The Council's case:-

(11) The Chairman will invite the Council's representative to summarise the report relating to the application under consideration.

The Applicant's case:-

(12) The Applicant and/or representative will begin with their opening remarks and present their case.

(13) The Applicant's witnesses (if any) will give evidence in support of the Applicant's case.

(14) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.

Submissions from other parties (these will include Interested Parties, Ward Councillors (who are an interested party themselves or are acting in the capacity as a representative of an Interested Party) and representatives from Responsible Authorities:-

(15) Each party will present their case.

(16) Each party's witnesses (if any) will give evidence in support of the party's case.

(17) Each party and their witnesses may be questioned by the Chairman and members of the Sub-Committee.

(18) Each party may question their witness again to clarify any points which may have arisen.

(19) If the Applicant or the interested parties wish to question each other, questions may be directed through the Chairman.

(20) Closing Statements may be made by the Applicant and/or representative.

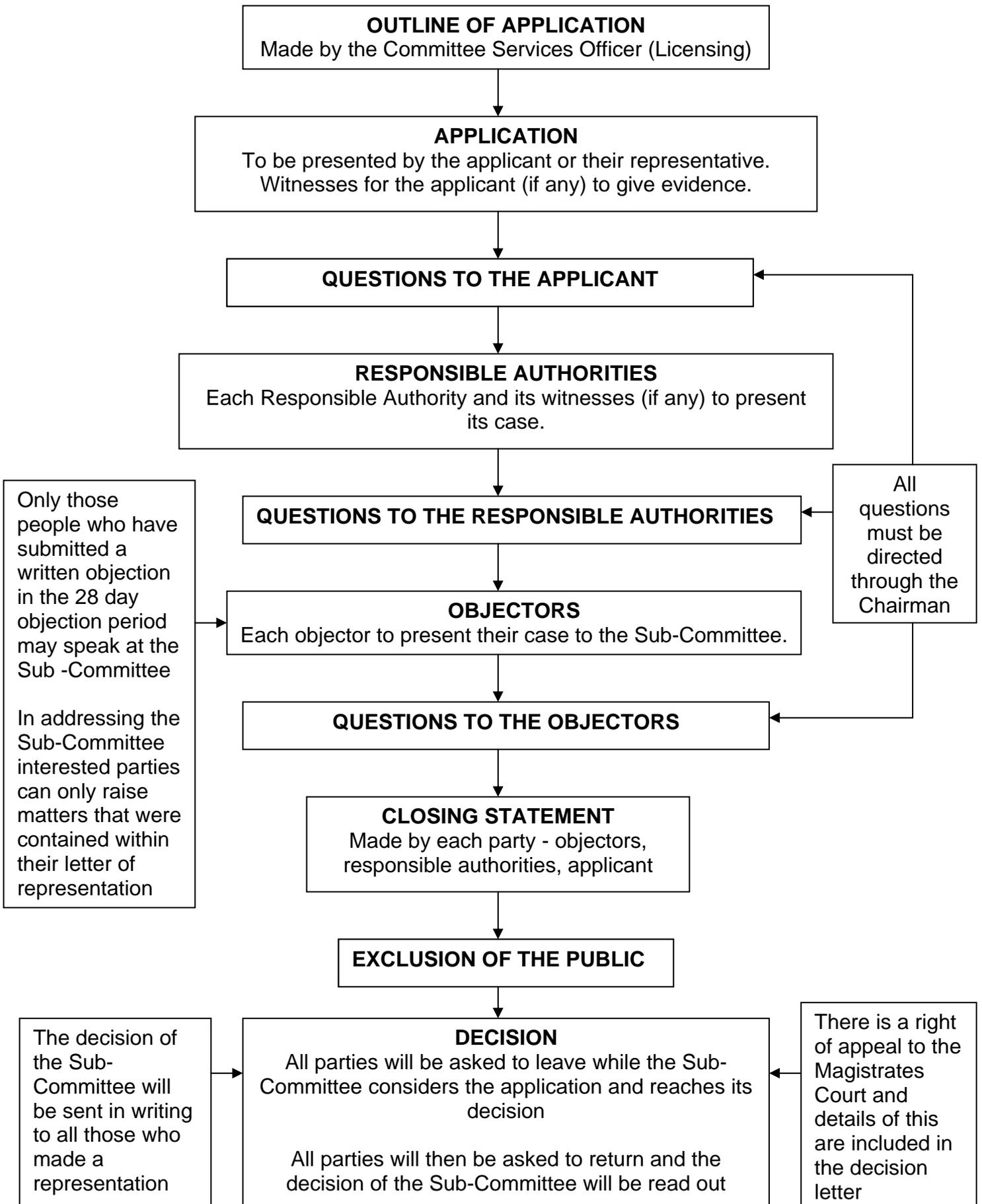
(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Sub- Committee

(22) The Applicant and/or representative, Interested Parties, Ward Councillors, Responsible Authorities and the members of the public and the press will leave the room to allow the Sub-Committee to determine the application. During this process the Sub-Committee members may ask for legal advice from the Legal Advisor.

(23) The Applicant and/or representative, Interested Parties and Ward Councillors, Responsible Authorities and the members of the public and the press will be invited to return to the room when the Sub-Committee's determination will be announced. Written details of the determination and the grounds upon which it is based will be sent to all parties concerned in accordance with the Hearings Regulations.

# The Licensing Sub-Committee Hearings Process



**COLCHESTER BOROUGH COUNCIL  
LICENSING SUB-COMMITTEE HEARINGS  
19 July 2013 at 10:00am**

**Members**

Councillors Julia Havis, Margaret Kimberley and  
Michael Lilley.  
*(Chairman and Deputy Chairman to be appointed at first  
meeting)*

**Substitute Members :**

**Agenda - Part A**  
(open to the public including the media)

**Pages**

**1. Appointment of Chairman**

To appoint the Chairman for the meeting.

**2. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

**3. Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if

he/she has made a pending notification.

- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

#### **4. Minutes**

**1 - 5**

To confirm as a correct record the minutes of the meeting held on 24 May and 28 June 2013.

#### **5. Applications under the Licensing Act 2003**

**6 - 11**

Shop  
83 Barrack Street  
Colchester  
CO1 2LP



# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

24 May 2013

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 24 May 2013 at 01.30pm in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present: - Councillor Cope  
Councillor Fairley-Crowe  
Councillor Lilley

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Licensing Application

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- **Kings Arms, 63 Crouch Street, Colchester**

The Sub-Committee considered an application to vary the premises licence in respect of the Kings Arms, 63 Crouch Street, Colchester to the creation of a new servery (outside bar) and cold cellar in the existing barn to the rear of the premises.

#### In Attendance

Applicant	Mr A Evans, Counsel for the applicant Mr R Calderbank, business Development Manager, Greene King Mr M Deveney, Manager of the Kings Arms
Objectors	Councillor Frame Councillor Hayes
Licensing Authority	Mr M Nelson, Food Safety and Licensing Manager Mr S Swain, Enforcement Officer Mr C. Samuel, Legal Services Mrs S White, Licensing & Committee Co-ordinator

Mrs White gave a brief summary of the application. The Sub-Committee noted that the application was for an extension of the licensed area to include a new servery (outside bar) and cold cellar in the existing barn to the rear of the site and at the back of the external

courtyard. The bar was to be located at the front of the barn and open out into the courtyard through the existing double doors. The conditions and hours on the licence were unaffected by the application.

In presenting the application, Mr Evans explained the nature and operation of the pub and its clientele. The premises had been managed by Mr Deveney and his wife, who was the Designated Premises Supervisor, for 10 years. Its clientele tended to be older than the average and Mr Adams mentioned that the premises had the third highest level of sales of Pimms in the country which seemed to be consistent with and compliment the large outside drinking area. The potential for this area to cause disturbance to local residents had been recognised in previous applications and as a result the licence already had a condition limiting the number of outside music events to no more than four per year. The music on these occasions stopped by 18.00 and notification of the event was given to local residents in the vicinity. There was no intention to increase the number of outside events as a result of the current application.

Mr Deveney explained the reasoning behind the application which was to relieve the pressure of the existing bar which on busy days could be surrounded by a crowd 7 to 8 persons deep waiting to be served. The new bar would take orders for food and drink and would also facilitate staff serving patrons at their tables. The suggestion of Environmental Protection to stop serving from the outside bar at 21.00 was accepted by the applicant. Mr Deveney stated that he did not expect the new bar to significantly change the nature of the business. The garden was already very well used and entry was restricted by staff if necessary with doorstaff only being used when events were taking place. Clarification was sought on the letter that was circulated to local residents and Mr Deveney confirmed that they went to every house in the immediate vicinity of the pub.

Mr Milham, Environmental Control Officer, gave a history of the noise complaints that had been received in relation to the premises. In terms of the day to day operation of the premises there had only been three isolated complaints and none of these had been followed up by the complainants. In total there had been 8 complaints from 3 residents in the last 13 years. Conditions had been agreed with the applicant in advance of the hearing but in the interests of clarity it was suggested that the wording of these be amended to control the use of the outside area after 23.00 to help avoid disturbance to local residents.

Councillor Frame addressed the Sub-Committee on the details of his letter of representation which was concerned with the creation of the outside servery and the potential increase in noise nuisance which he believed would occur if the licence was granted due to the increased interaction between customers and staff in this area. Councillor Hayes addressed the Sub-Committee on her representation and asked that the complaints log, which had been circulated by the applicant's representative, be amended and in future contain far more factual information. Councillor Hayes reported that she had on occasions heard music and other noise from the premises and she considered that there was a noise problem at the premises. Councillor Hayes explained how she had ascertained, on several occasions, from where the noise emanated.

*RESOLVED* to permit the creation of a new servery (outside bar) and cold cellar in the existing barn to the rear of the premises and at the back of the external courtyard. The bar to be located at the front of the barn and open out into the courtyard through the existing double doors subject to the following conditions –

1. No use of the outside bar after 21.00.

2. No patrons be permitted in the outside area from 23.00, with the exception of those using the smoking area.
3. No bottles or glasses be permitted in the smoking area after 23.00.
4. The licence holder maintains a complaints book to include the nature of each complaint, its time and date and the action to be taken and a record of action taken on each complaint.

### **Reasons for the Determination**

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations, arguments and evidence presented by all parties including the applicant and other parties under the Licensing Act 2003 and had regard to the section 182 guidance, as amended, and to its own Licensing Policy.

The Sub-Committee being familiar with the area found that there were residential properties to the rear of the premises and that some noise complaints had been received from residents in the past.

The Sub-Committee was mindful that its decision must be an appropriate and proportionate response aimed at the promotion of the licensing objectives. The Sub-Committee therefore approved the conditions agreed by the applicant with Environmental Protection as amended at the Hearing and considered that these were adequate, together with an additional condition offered by the applicant in relation to keeping a complaints book, to address the concerns raised.

All parties were reminded that they have the right to request a review if problems occurred once the new licence was in operation. Parties have the right of appeal against this decision.

### **5. Close of Meeting**

The meeting closed at 15.47.

**Chairman:**

# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

28 June 2013

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 24 May 2013 at 10.30am in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present: - Councillor Cope  
Councillor Blandon  
Councillor Jarvis

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Licensing Application

The Head of Environmental and Protective Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- **Bungalow Diner, 45 London Road, Marks Tey**

The Sub-Committee considered an application to vary the premises licence in respect of the Bungalow Diner at 45 London Road, Marks Tey for a new premises licence.

#### In Attendance

Applicant	Mr Hook, solicitor and advocate for the applicant Mr M Rahman
Licensing Authority	Mr M Nelson, Food Safety and Licensing Manager Mr C. Samuel, Legal Services Mrs S White, Licensing & Committee Co-ordinator

Mrs White gave a brief summary of the application. Two representations in relation to the licensing objective of the prevention of crime and disorder had been received; one from a local resident and one from Marks Tey Parish Council. The objections expressed concern at the potential disturbance that may result in the event that the licence was granted.

Mr Hook, in presenting the application, explained that Mr Rahman lived locally at No.91 London Road, above the Post Office, and in addition to being Post Master and running the post office and convenience store; he also owned and operated Jhaal, an Indian Restaurant further along London Road. There had been no problems in relation to the operation of

either of these premises. It was intended to operate the premises as a themed 1950's American style diner and a copy of the menu had been circulated to members of the Sub-Committee in advance of the Hearing.

In responding to the points raised by the objectors it was mentioned that there were two toilets at the premises and that these were accessed from the restaurant area and not from the kitchen as indicated by the plan. The applicant confirmed that an amended plan would be submitted showing the correct location of the toilets. The use of the car park was discussed and Mr Rahman confirmed that the parking area was fenced on three sides and could be chained off at the front to prevent access.

*RESOLVED* to permit:-

- The supply of alcohol on the premises Mondays to Sundays inclusive from 09.00 to 23.00
- Provision of live music, playing of recorded music, performance of dance and anything of a similar description Mondays to Sundays inclusive from 11.00 to 23.00
- The premises are open to the public Mondays to Sundays inclusive from 06.00 to 23.00

Subject to the condition that the car park should be chained closed at the close of business and remain closed until the premises re-opens.

### **Reasons for the Determination**

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representations and the evidence presented by the applicant under the Licensing Act 2003. The Sub-Committee was mindful that its decision must be an appropriate and proportionate response aimed at the promotion of the licensing objectives and was satisfied that the concerns raised by the objectors were adequately addressed by the applicants' operating schedule together with the imposition of the condition in relation to the use of the car park. In these circumstances the Sub-Committee felt it was appropriate to grant the application.

### **5. Close of Meeting**

The meeting closed at 11.00

**Chairman:**



<b>Licensing Committee – 19 July</b>	<b>Agenda Item 5</b>
<b>Shop at 83 Barrack Street, Colchester</b>	<b>FOR GENERAL RELEASE</b>

<b>Premises</b>	Shop 83 Barrack Street Colchester CO1 2LP	Ward: New Town Stress Area: No Civica Ref: 80181 Author: Martin Nelson
<b>Application</b>	Application for a new premises licence to permit the supply of alcohol	Appendix 1
<b>Street Plan</b>		Appendix 2
<b>Interested Parties</b>		
Local Residents		Appendix 3

<b>New Application for a Premises Licence</b>
<p>To permit:-</p> <ul style="list-style-type: none"> <li>- The supply of alcohol off the premises and for the premises to be open for the following hours-</li> </ul> <p style="text-align: center;">Mondays to Sundays from 06.00 to 00.00</p>

<b>Policy Guidelines – Shop at 83 Barrack Street, Colchester</b>
<p style="text-align: center;"><b>Colchester Borough Council’s Statement of Licensing Policy</b></p> <p><b>Assessing Applications</b></p> <p><b>Boxed bold type</b> refers to policy and to matters that the Licensing Authority would generally expect or encourage to see addressed in the applicant’s operating schedule, where reasonable, proportionate or appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve to positively promote the four licensing objectives, the factors that influence the achievement of those objectives and the examples of best practice that could be implemented by the applicant to achieve that outcome.</p> <p>Paragraph <b>3.8</b> of the Council’s Statement of Licensing Policy recognises that “the new Licensing Act 2003 has brought with it great expectations and challenges, not least of which has been the extension of opening hours for licensed premises such as clubs, pubs, bars and takeaways”.</p> <p>The Policy goes on to add in paragraph <b>3.9</b> that “however, along with the great</p>

expectations and opportunities for business expansion, the Licensing Act has also brought with it the responsibilities of the four licensing objectives for all the stakeholders concerned in this venture”.

### **Policy**

Paragraph **3.10** of Colchester Borough Council’s statement of Licensing Policy advises that:

**The Licensing Authority wishes to work with the licensed trade to promote best practice, the responsible consumption of alcohol and the effective management of licensed premises. It will therefore consider sympathetically any applications for extended licensing hours from well-operated, well managed premises, whose operating schedules responsibly reflect how they are going to effectively promote the four licensing objectives.**

Paragraph **3.11** of Colchester Borough Council’s statement of Licensing Policy also advises that:

**Premises that submit new applications, or applications to extend their opening hours, or vary their licensable activities whose operating schedules do not clearly demonstrate that they are well run, effectively managed and are responsibly operated in accordance with the four licensing objectives, should ordinarily expect such applications to be challenged by those responsible authorities as defined by the Act.**

Two representations have been received from local residents opposing the application on the grounds that if granted it will result in an increase in anti-social behaviour and public nuisance. The representations mention other issues such as traffic and the need for the premises given that others in the area sell alcohol but these are matters that cannot be considered by the Sub-Committee in reaching its determination.

### **Prevention of Crime and Disorder**

The Council’s statement of Licensing Policy states under paragraph 5.12 that “the Council is committed to further improving the quality of life for the people living in the borough of Colchester by continuing to reduce crime and the fear of crime”.

### **Policy**

Paragraph **5.14** of the Policy states that:

**Where relevant representations have been received, and in considering applications for review, the Licensing Authority will take into account the following factors:**

- (i) Whether the premises has or will have a negative impact on levels of crime and disorder and anti-social behaviour, and whether the operating schedule reasonably and proportionately takes into account the likelihood of crime and disorder occurring as a result of the grant of the application. In deciding this, regard will be given by the Licensing Authority on the levels of crime and disorder in and around the venue, the proposals contained in the operating schedule; the level of compliance with conditions on existing licences; and the extent to which Essex Police’s effective management checklist (see Appendix 18 of the Council’s statement of Licensing Policy) has been taken into account. This provides a compressive list of best practice.**

- (ii) Whether the layout, lighting and fittings of the premises have been designed to minimise conflict and opportunities for crime and disorder and anti-social behaviour.**
- (iii) Whether the operating schedule includes management measures to prevent crime and disorder.**
- (iv) Whether the operating schedules for pubs and bars or for the provision of facilities for music and dancing have had regard to the number of people who may be admitted to the premises and the possibility of overcrowding increasing the likelihood of crime and disorder; the area set aside for drinking while standing at any time when any licensable activity is taking place and the measures set out in Appendix 18 of the Policy to help prevent crime and disorder and offences under the Licensing Act 2003. Other premises may have to have regard to these matters in exceptional circumstances.**

### **Prevention of Public Nuisance**

Paragraph **5.21** of the Council's statement of Licensing Policy advises that "some licensed premises have the potential to have a significant negative impact on communities through the public nuisances that may arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequences of the operation of licensed premises that are not effectively or responsibly managed, whilst at the same time it recognises the valuable cultural, social and business importance that the vast majority of licensed premises provide to local communities".

Paragraph **5.22** of the Council's statement of Licensing Policy goes on to advise that "the Licensing Authority therefore intends to interpret 'public nuisance' in its widest sense and takes it to include such issues as noise, disturbance, light, odour, litter and alcohol related anti-social behaviour, where these matters impact on people living, working or otherwise engaged in normal activity in the immediate vicinity of the licensed premises".

### **Policy**

Paragraph **5.23** of the Policy states that:

**Where relevant representations have been received, and in considering applications for review, the Licensing Authority will take into account the following factors:**

- (i) The potential for nuisance associated with the style, characteristics and activities for the proposed licensable activities to be carried on at the premises, and the potential steps that could be taken to reduce the risk of nuisance occurring. This particularly may apply where residents live in the immediate vicinity of the premises;**
- (ii) Whether operating schedules contain adequate measures to prevent noise and vibration, either air-borne or structure-borne, and which are generated from within the premises or outside it, causing disturbance to people in the immediate vicinity of the premises. Regard will be given to disturbance of people whether at home or at work or otherwise staying in or visiting that area. Stricter conditions on noise control will be imposed in areas that have denser residential accommodation or residents living in the immediate vicinity of the premises.**

### **Additional Policy Guidance – Public Nuisance**

The Council's statement of Licensing Policy goes on to give the following policy advice in relation to the promotion of the Prevention of Public Nuisance licensing objective

Paragraph 5.27 of the Policy states that:

**The Licensing Authority encourages applicants to set out in their operating schedules the steps taken or proposed to be taken to deal with the potential for public nuisance arising from the operations of the premises.**

Paragraph 5.28 of the Policy states that:

**When addressing the issue of prevention of public nuisance, where it is reasonable, proportionate and necessary to do so, the applicant should demonstrate that those factors that may impact on the likelihood of public nuisance have been considered.**

**These may include:**

- **The location of the premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.**
- **The hours of opening between 11.00pm and 7.00am.**
- **The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises.**
- **The design and layout of the premises; particularly the presence of noise limiting features.**
- **The provision of toilet facilities on the premises.**
- **The safe capacity of the premises.**
- **The availability of public transport or taxis.**
- **A wind down period between the end of the licensable activities and closure of the premises.**
- **The last admission time.**

### **Additional Policy Guidance – General**

The following additional policy guidance is taken from the Council's statement of Licensing Policy and is included in this report for the advice and information of the Licensing Sub-Committee, the applicant and for any other interested party concerned with this application.

#### **Areas outside of the Stress Area Policy**

Paragraph 3.103 of the Policy states that:

**The absence of a stress area policy for a particular area does not prevent any responsible authority or interested party making representations on a new**

**application for the grant or variation of a premises licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. However where no relevant representations are received the application must be granted automatically.**

Paragraph 3.104 of the Policy states that:

**Applications outside of the Stress Area will be judged on their own individual merits, but the Licensing Authority may take into consideration the following:**

- (i) Existing levels and concern about crime and disorder or public nuisance, and the impact that the proposed use will have on a locality.**
- (ii) The proximity of residential properties to the proposed use.**

#### **Off Sales/Shops and Supermarkets**

Paragraph 3.46 of the Policy states that:

**The Licensing Authority recognizes that, in accordance with the Government's guidance, shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the hours that they intend to trade, provided that there is no negative impact on the promotion of the licensing objectives as a result.**

#### **Human Rights Implications**

A Licence is to be regarded as the property of the applicant; however their right to the use of that property must be balanced against all other public interests or representations in this matter that the Licensing Sub-Committee may wish to consider reasonable and proportionate in relation to the application that has been submitted and also the representations that have been received against it.

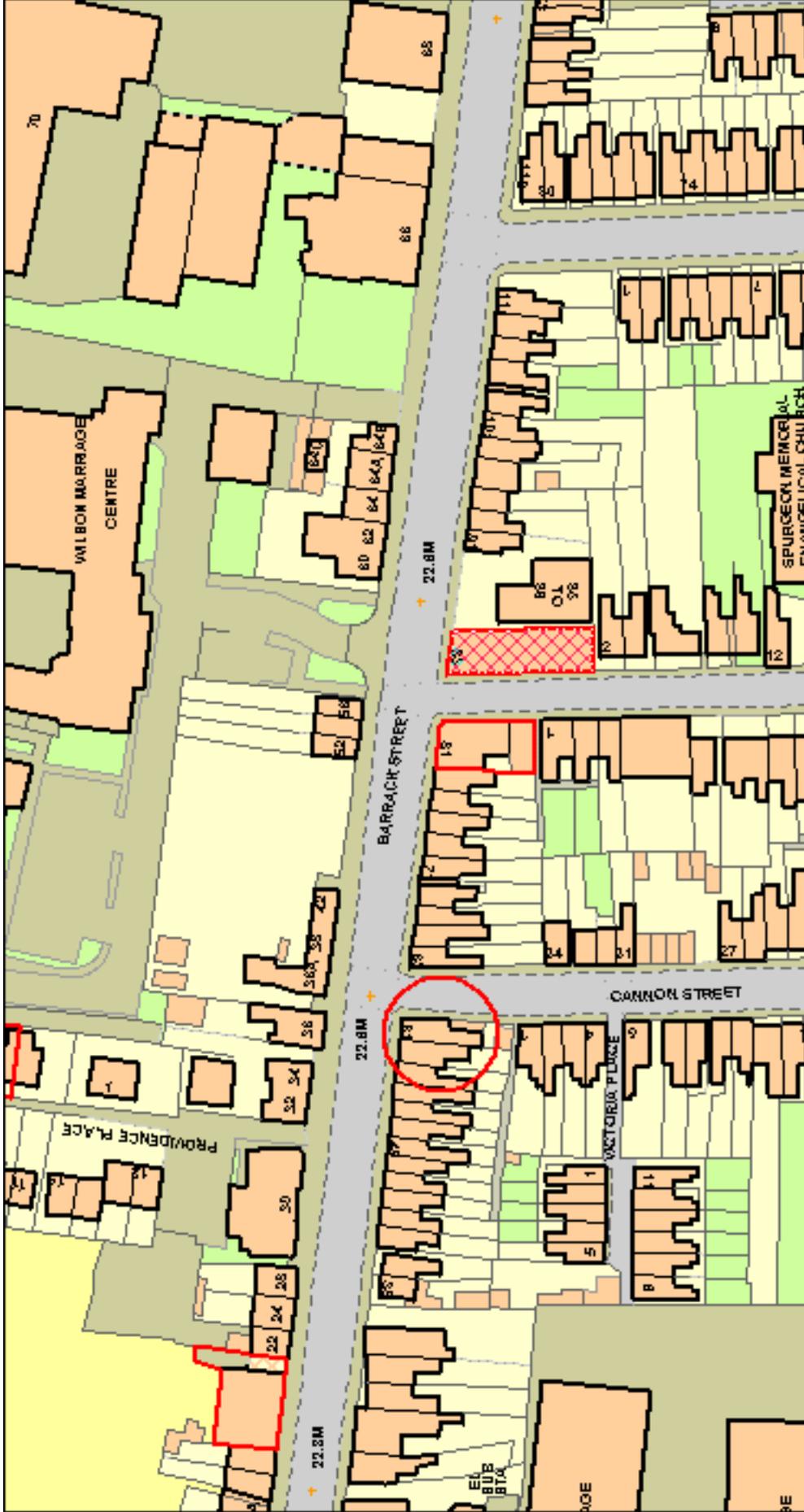
In making their decision as to whether to grant this application, Members of the Licensing Sub-Committee should in particular consider Article 1 of the First Protocol of the Human Rights Act 1998, that individuals are entitled to the peaceful enjoyment of their property and also Article 8 that everyone has the right to respect for his private and family life, his home and his correspondence.

#### **Crime and Disorder Implications**

Section 17 of the Crime and Disorder Act 1998 imposes a duty on local authorities when exercising any of their functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all it possibly can to prevent, crime and disorder in its area.

The Guidance issued by the Secretary of State for Culture, Media and Sport under the Licensing Act 2003 underlines the importance of the provisions of Section 17 when considering applications for premises licences under the new licensing legislation and in particular if a local authority is considering having a policy regarding the issue of new licences in areas where there may have been concerns about crime and disorder issues put forward by local residents and or the Police and the Council are considering the cumulative effect of the number of licences in existence in a designated area.

# Premises Location Plan



Licence Application Reference: 080181  
Premises Name & Address: Shop 83 Barrack Street Colchester  
Date Produced: 29 August 2013

MAP NOT TO SCALE

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e-mail: [licensing.committee@colchester.gov.uk](mailto:licensing.committee@colchester.gov.uk)  
website: [www.colchester.gov.uk](http://www.colchester.gov.uk)