

# Licensing Sub- Committee Hearings

Grand Jury Room, Town Hall  
25 May 2012 at 2.00pm

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.

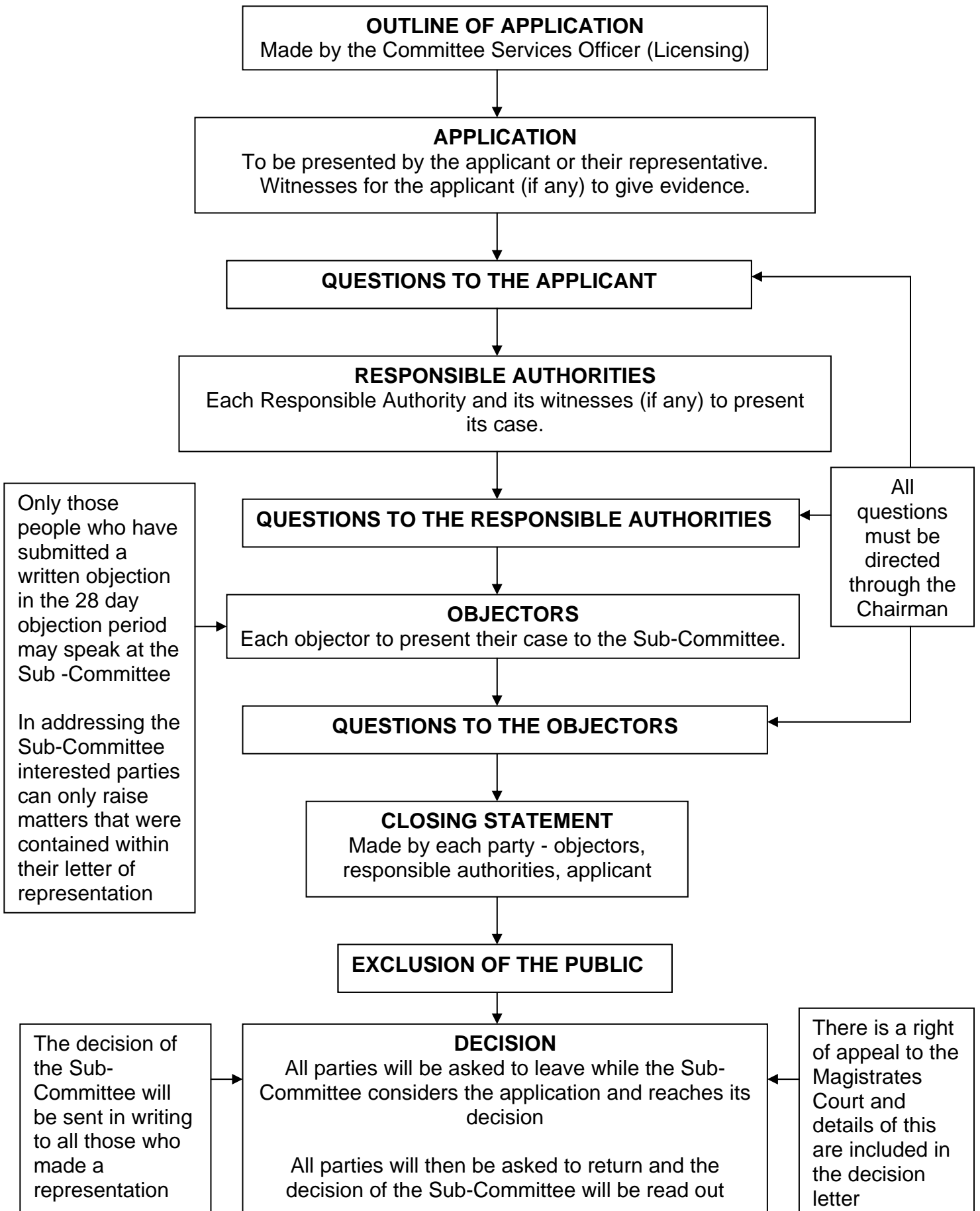
(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

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  
25 May 2012 at 2:00pm**

**Members**

Chairman : Councillor Nick Cope.  
Councillors Michael Lilley and Colin Mudie.

**Substitute Members** :

**Agenda - Part A**

(open to the public including the media)

**Pages**

**1. Appointment of Chairman**

To appoint a 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 personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial

interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

#### **4. Temporary Event Notice - Licensing Act 2003**

**1 - 3**

Silk Road  
4 St Botolph's Street  
Colchester  
Essex  
CO2 7DX





**Contact:** Gary O'Shea  
**Tel:** 01206 506956  
**E-Mail:** gary.o'shea@colchester.gov.uk

Licensing Sub-Committee – 25th May 2012

**Application for a Temporary Event Notice made under The Licensing Act 2003**

**Summary**

To consider objection notices received from Essex Police and Environmental Protection against a Temporary Event Notice that has been submitted in respect of an extension of hours for The Silk Road, 4 St Botolph Street, Colchester.

<b>1.0</b>	<b><u>RECOMMENDATIONS</u></b>
<b>1.1</b>	<p>The following options are open to the Panel;</p> <ul style="list-style-type: none"> <li>(i) To uphold the Police and/or Environmental Protection objections by ordering the issuing of a counter notice preventing the event from proceeding, if the committee are satisfied that to permit the event to proceed will undermine one or more of the licensing objectives.</li> <li>(ii) Not to issue a counter notice but to carry over relevant conditions as appropriate from the premises licence to the Temporary Event notice, if satisfied that in its current form the notice would be likely to undermine one or more of the licensing objectives, but that the appropriate conditions should satisfy such concern.</li> <li>(iii) To dismiss the objections on the basis that there is no perceived impact on the licensing objectives in allowing the event to proceed and to take no action.</li> </ul>
<b>2.0</b>	<b><u>PURPOSE OF THE NOTICE</u></b>
<b>2.1</b>	<p>The guidance issued by the Secretary of State under provision of Section 182 Licensing Act 2003 (the Act) states at 7.2:          “The system of permitted temporary activities is a light touch process and as such the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice of the event (a “temporary event notice” or “TEN”).</p>
<b>2.2</b>	<p>At 7.5, the guidance states:          “The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements. Their intervention may in some cases result in the licensing authority imposing conditions on a temporary event notice. When giving a temporary event notice, consideration should be given to the four licensing objectives. The licensing authority only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded”.</p>
<b>2.3</b>	<p>The Temporary Event Notice (TEN) has been submitted by Mr Rasim Osman on behalf of the Silk Road, 4 St Botolph Street, Colchester, CO2 7DX and was received by the licensing authority on 17 May 2012.</p>
<b>2.4</b>	<p>The purpose of a TEN is to permit a licensable activity at a premises that does not hold a premises licence or club premises certificate or to permit a licensable activity that is not covered under provision of any authorisation that the premises already holds. This would include the use of a TEN to extend permitted hours.</p>

<b>3.0</b>	<b><u>MATTERS FOR CONSIDERATION</u></b>
<b>3.1</b>	<p>This TEN seeks to extend the permitted hours for the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshments as permitted under provision of the current premises licence as follows:</p> <p>Sunday 3 June 2012 from 03:00 hours until 04:00 hours  Monday 4 June 2012 from 02:00 hours until 04:00 hours  Tuesday 5 June 2012 from 02:00 hours until 04:00 hours</p> <p>A copy of the notice is attached as appendix A and a copy of the current premises licence is attached as appendix B.</p>
<b>3.2</b>	<p>There has been an objection from Essex Police that if granted, the application will undermine the Crime Prevention Objective. The objection notice states:</p> <p>“The premises are located in a cumulative impact area which currently has serious crime and disorder issues and these are likely to be exacerbated during the period of the proposed temporary event notice. In addition none of the conditions currently in place on the premises licence would be in effect”.</p> <p>The full objection notice is attached as appendix C.</p>
<b>3.3</b>	<p>There has been an objection from Environmental Protection, that if granted in its current form the TEN would undermine the prevention of public nuisance objective. However, they advise that if appropriate conditions are able to be carried forward from the existing premises licence, this would satisfy their concerns in relation to public nuisance.</p> <p>The full objection notice is attached as appendix D.</p>
<b>4.0</b>	<b><u>STATEMENT OF LICENSING POLICY</u></b>
<b>4.1</b>	<p><b>Policy in relation to Temporary Event Notices</b>  Paragraph 5.17 of Colchester Borough Council’s statement of Licensing Policy advises that:</p> <div style="border: 1px solid black; padding: 5px;"> <p>Certain temporary events are not required to be licensed, but can still be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, they can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. Appendix 17 provides details regarding the application process and timescales for the submission of Temporary Event Notices. Temporary Event Notices can be augmented by the use of Essex Police’s promotion/event risk assessment form which can be supplied to them by Essex Police or by the Licensing Authority.</p> </div>
<b>5.0</b>	<b><u>HUMAN RIGHTS IMPLICATIONS</u></b>
<b>5.1</b>	<p>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.</p> <p>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.</p>

<b>6.0</b>	<b><u>CRIME AND DISORDER IMPLICATIONS</u></b>
<b>6.1</b>	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.
<b>7.0</b>	<b><u>LEGAL IMPLICATIONS</u></b>
<b>7.1</b>	There is a right of appeal to the Magistrates Court by any party aggrieved by any decision of the licensing sub-committee. Such an appeal must be made no later than 21 days following the decision.
<b>7.2</b>	Reasoned justification should be given in relation to any resolution in connection with the TEN. This is particularly important in relation to most TENs as the requirement to submit them only 10 working days in advance means that whilst the right to appeal exists, it will often be the case that there will be no time for an appeal to be considered prior to the proposed event date.

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