

LICENSING SUB-COMMITTEE HEARINGS

14 DECEMBER 2012

Present :- Councillor Nick Cope (Chairman)
Councillors Julia Havis and Margaret Kimberley

. **Appointment of Chairman**

RESOLVED that Councillor Cope be appointed Chairman.

. **Declarations of Interest**

There were no declarations of interest.

. **Minutes**

The minutes of the meetings held on 25 May, 1 June and 24 August 2012 were noted and confirmed as correct records.

. **Applications under the Licensing Act 2003**

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.

- Premier Inn, Colnebank House, 30 St Peter's Street, Colchester

The Sub-Committee considered an application for a premises licence in respect of the proposed Premier Inn at 30 St Peter's Street, Colchester to permit the supply of alcohol on and off the premises, the exhibition of films, and the provision of late night refreshment, the hours dependent on whether the patrons were residents or non residents of the hotel.

In Attendance

Applicant Mrs Hazelwood for John Gaunt Solicitors; Ms Ketteringham, Whitbread, Premier Inn

Objectors Councillor J. Hayes

Licensing Authority Mr G. O'Shea, Licensing and Enforcement Manager; Mr C. Samuel, Legal Services; Mrs S White, Licensing & Committee Co-ordinator

Mrs White gave a brief summary of the application. 13 objections on the grounds of

public nuisance were received to the application as submitted and as a result the applicant had proposed a reduction in the terminal hour to 23.00 for all activities for non-resident patrons of the hotel, the premises to close 30 minutes later. The effect of this was to remove the provision of late night refreshment from the application as a licence for this was only required from 23.00 onwards. The hours for licensable activities and the sale of alcohol for patrons of the hotel were unaffected.

Following the reduction in hours 8 of the representations were withdrawn. A further two representations, shown as the first two representations in Appendix 3, were considered to have been resolved as the changes to the application had met the concerns expressed in the letters. A further letter of representation shown in the paperwork had been withdrawn after the paperwork for the Committee had been prepared. The Sub-Committee therefore considered the amended application and the three remaining objections which had been lodged against the original application and maintained despite the reduction in hours.

In presenting the application Mrs Hazelwood explained that the original application submitted by Whitbread Premier Inn had followed its standard template used for all Premier Inn premises licences unless there were planning conditions which necessitated a deviation from this line. In this case the assurances made at to the Planning Committee were not communicated to the solicitors submitting the application and this had resulted in the application being at odds with the expectations of residents. Following the receipt of the letters of representation, the applicant had reduced the application to bring it into line with the planning assurances.

Mrs Hazelwood informed the Sub-Committee that the premises was designed to be a hotel with a small bar facility and this was not in the reception area and would offer waitress service only. It was considered that the facilities to be provided at the premises would not encourage people to migrate from Town Centre venues. The target audience would be families and businessmen and as a result there were a large number of family sized rooms. The company was committed to providing a good night's sleep and it was contended by the applicant that this was consistent with the needs of close neighbours for a good nights sleep as well.

Councillor Hayes addressed the Sub-Committee outlining her objection to the application and stressing the quiet nature of the location which she believed would be disturbed in the event that the licence was granted. In presenting the case Councillor Hayes referred to the case of Taylor vs Manchester City Council and TCG Bars Ltd in which consideration had been given to the question of the amendment of variation applications after submission and advertisement. The Sub-Committee considered the case and took advice from the Council's legal representative and Licensing & Enforcement Manager. It also heard from the applicant in relation to this case. The Sub-Committee concluded that the case had no direct bearing on the consideration of this application, particularly as the application had been reduced which was to the benefit of local residents, and determined to continue with the Hearing.

The Decision

RESOLVED to permit:-

For non-residents of the hotel:-

- The sale of alcohol on/off the premises and the provision of films on the premises Mondays to Sundays from 10.00 to 23.00
- The premises to open at 06.00 and to close 30 minutes after the end of the sale of alcohol to non residents.

For residents of the hotel:-

- The provision of films on the premises from 10.00 to 00.30 Mondays to Sundays inclusive
- The sale of alcohol for 24 hours a day
- The premises to be open for 24hours a day for hotel residents.

Considerations

The Sub-Committee were mindful that the applicant had responded to the concerns of the objectors by reducing the terms of the application. The Sub-Committee noted that 3 relevant representations remained from interested parties and only one of the interested parties, Cllr Hayes, attended the Hearing and presented her case. It considered that the concerns of the first two objectors, shown in Appendix 3, had been met by the reduction in the terms of the application. The Sub-Committee noted that the representations concerned the licensing objective of the prevention of public nuisance. It was also noted that there were no objections from the responsible authorities.

Councillor Hayes questioned the validity of the proceedings because the application had been amended and raised the case of Taylor vs. Manchester City Council & TCG Bars Ltd. The Sub-Committee did not consider that the case supported the Councillor's argument and further, that as the amendment had been a reduction and sought better to promote the licensing objectives the proceedings should continue. In reaching this decision the Sub-Committee had regard to the advice given by its Legal Advisor and the Licensing & Enforcement Manager.

The Sub-Committee considered the guidance issued under section 182 of the Licensing Act 2003 as amended, and to its own policy. 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 the interested parties under the Licensing Act 2003.

Reasons for the Determination

The Sub-Committee after carefully weighing the evidence of all parties considered that this was an application for a new licence from an applicant with a good and established record in operating other similar premises. The Sub-Committee noted the comments of the applicant that it appreciated the needs of residents for a good nights sleep, bearing in mind that its business was to provide good accommodation, including quiet sleeping accommodation for its customers

The Sub-Committee was mindful that its decision must be appropriate and aimed at the promotion of the licensing objectives and based on the evidence presented. The Sub-Committee was satisfied that the most appropriate way forward was to grant the

application, subject to the operating schedule and to the relevant mandatory conditions in the Licensing Act 2003.

The Sub-Committee was not persuaded by the arguments made by the interested parties, including Cllr Hayes, in respect of the potential noise nuisance as a result of granting the application.