

# Licensing Sub- Committee Hearings

**Grand Jury Room, Town Hall  
14 December 2012 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.

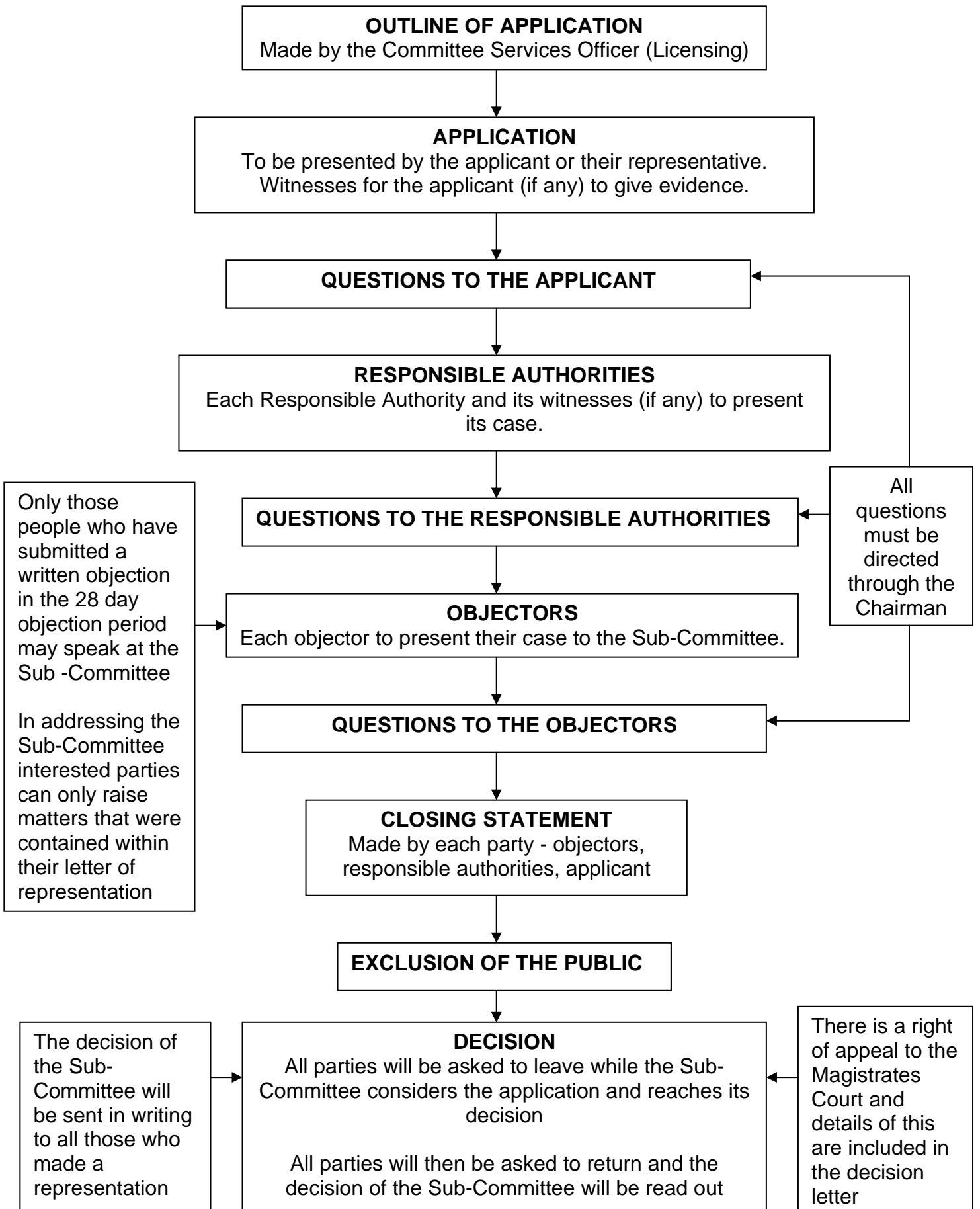
(21) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

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  
14 December 2012 at 10:00am**

**Members**

Councillors Nick Cope, Julia Havis and Margaret Kimberley.  
*(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 ensuing Municipal Year.

**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. Minutes**

**1 - 10**

To confirm as a correct record the minutes of the meetings held on 25 May, 1 June and 24 August 2012.

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

**11 - 18**

Premier Inn Colchester  
Colnebank House  
30 St Peter's Street  
Colchester  
CO1 1HY





# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

25 May 2012

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 25 May 2012 at 14.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cope  
Councillor Lilley  
Councillor Mudie

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Licensing Application // The Silk Road

The Head of Environmental and Protective Services submitted a report in relation to an objection notice from Essex Police and an objection from Environmental Protection in relation to a Temporary Event Notice submitted in respect of an extension of hours for The Silk Road at 4 St Botolph's Street, Colchester.

##### In Attendance

Applicant - Mr Osman Rasih  
Environmental Control – Mrs S Riley, Environmental Protection Officer  
Essex Police – Mr R Vickers, Police Licensing Officer  
Licensing Authority – Ms K Newman, Public Health & Enforcement Service Manager; Mrs S White, Committee Services Officer (Licensing); Ms L Tuthill, Committee Services Assistant, (Licensing); Mr J Wilkins, Principal Lawyer, Legal Services

Ms Newman presented the report advising that a Temporary Event Notice (TEN) had been submitted in respect of the Silk Road to permit the sale by retail of alcohol; the provision of regulated entertainment; and the provision of late night refreshment until 04.00 on 3, 4 and 5 June 2012. Objections to the TEN had been received from Essex Police and Environmental Protection. It was explained to the Sub-Committee that there had been an error in the submission of the application and that the current premises licence permitted it to be open for an additional hour on the Friday, Saturday and Sunday preceding a Bank Holiday. A summary sheet was circulated giving details of the hours permitted by the licence and those applied for under the TEN and this indicated that a TEN was not required for the Saturday night/Sunday morning when the premises could operate under its existing premises licence. The application was deemed amended accordingly and the Police withdrew their objection to this part of the TEN and accepted the position regarding

permitted hours. The Sub-Committee therefore considered the amended TEN in so far as it related to the Bank Holidays of 4 and 5 June 2012.

Essex Police had objected to the TEN on the grounds that it would undermine the Licensing objective of the prevention of crime and disorder. The premises were located in a cumulative impact area which had crime and disorder issues and these were likely to be exacerbated during the period of the proposed TEN. In addition none of the conditions in place on the current premises licence would be in place when the TEN was in operation. Environmental Protection had objected on the grounds that very loud volume music emanated from the premises and there was a complaint history although no open noise complaint at this time. It indicated that in the event that the full premises licence conditions were attached to the grant of the TEN, it would withdraw its objection.

Mr Rasih addressed the Sub-Committee on his application and explained that he did not consider opening the Silk Road would contribute to crime and disorder as other premises would be open in the area. Mr Rasih thought it more likely that there would be an increase in crime and disorder if he did not open as people hoping to gain entry until 04.00 would be encouraged to remain in the street where there was potential for them to cause trouble. He considered that he would be commercially disadvantaged if the TEN were not permitted when others were open until 04.00 and also that since Queen Street was usually the last place people came in the evening he relied on the late trade after midnight. In response to questioning Mr Rasih stated that he considered there was more trouble at the top end of the town in the High Street and Head Street than in Queen Street and that he had 30 CCTV cameras at various positions on the premises, and had employed extra security when he had previously held TENs until 04.00.

Mr Vickers addressed the Sub-Committee on behalf of Essex Police and explained that the Police had objected because it believed that the extension in hours requested by the TEN would contribute to an increase in crime and disorder in the area. Mr Vickers pointed to the increase in crime and in particular violent crime that had occurred in Colchester over the past year and gave details of an initiative backed by Pub and Club Watch to try and reduce extensions in hours except for special events. There had been 46 incidents at the premises and the Silk Road was ranked 4<sup>th</sup> in a table detailing incidents of crime at premises. Mr Vickers circulated the crime statistics for the Silk Road and asked the Sub-Committee to look at and consider the seriousness of some of the incidents recorded. Mr Wilkins asked Mr Rasih if he had any objections to the documents being circulated and whether he wished an adjournment to consider them. Mr Rasih confirmed that he had no objection to the circulation of the documents and did not require an adjournment although he queried the number of incidents recorded against the premises whilst acknowledging that some of them had taken place.

Mrs Riley addressed the Sub-Committee on the representation made by Environmental Protection who were concerned at the phenomenally loud music that emanated from the Silk Road. On one occasion when Mrs Riley had been on the late night noise service she had witnessed noise that was so loud that the fabric of the building was vibrating. Mr Rasih responded that the Silk Road was a very old building and it was impossible to contain the noise. In responding to concerns at the level of noise staff were exposed to he stated that staff had access to ear plugs if they wished to use them but that they enjoyed the music and did not want to use them.

## **The Decision**

Based on the evidence presented, the Committee believes that there is a risk of an increase in crime and disorder if the request for extended hours is granted; the Committee further considers that there are no conditions that could be imposed that would negate the objections received by the Police.

As a matter of concern, it is noted that the Police provided significant evidence on the day which the Applicant had not had an opportunity to consider. However, the concern was negated by the fact that the applicant was invited to object or adjourn, but declined.

## **4. Close of Meeting**

The meeting closed at 15.40

**Chairman:**

# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

1 June 2012

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 1 June 2012 at 10.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Cope  
Councillor Kimberley  
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.

- **Missoula, 29-39 Head Street, Colchester**

The Sub-Committee considered an application for a variation of a premises licence in respect of Missoula to extend the hours for the supply of alcohol on and off the premises, late night refreshment indoors, regulated entertainments and hours the premises were open to the public.

#### In Attendance

Applicant	Ms Eames, Poppleston Allen, Solicitor for the applicant Mr Town, Area Manager Ms Page, Designated Premises Supervisor
Environmental Control	Mrs S Riley, Environmental Protection Officer
Essex Police	Acting Chief Inspector White, Essex Police
Licensing Authority	Mr O'Shea, Licensing and Enforcement Manager Weavers, Leal Services Manager Mrs S White, Committee Services Officer (Licensing)

Mrs White gave a brief summary of the application and advised that a representation had been received from Essex Police opposing the application on the grounds that if the variation application were granted it would undermine the licensing objectives of the prevention of crime and disorder; public safety; and the prevention of public nuisance. The Police and applicant had circulated further information in advance of the hearing in respect of their cases and it was confirmed that this information had been received by members of the Sub-Committee.

Ms Eames outlined the three elements of the application which were the extension of hours in the morning to enable the premises to open and provide breakfast; the removal of all conditions in annexes 3,4,5 and 6 and the inclusion of an amended operating schedule instead; and the extension of hours on a Thursday until 03.00 for the sale of alcohol and the provision of regulated entertainment. It was noted that the Police did not oppose the first two elements of the application. In presenting the application Ms Eames explained that the proposed changes had been discussed with the Police in advance of the application being submitted but in the period of time between the discussions and the submission of the application, there had been a change in the view of the Police. With regard to the evidence presented by Essex Police, Ms Eames considered that much of it demonstrated good practice by the premises in reporting drugs and other offenses but which resulted in crime reports being logged against the premises. A copy of the Stonegate Pub Company's Licensing Manual and an incident register was submitted as evidence of the responsible attitude adopted by the Company towards licensing in its premises. The Licensing Manual set out the requirements under the Licensing Act and also contained information specific to the operation of Missoula.

In presenting the case for Essex Police, Acting Chief Inspector White stated that there had not been a change in the views of the Police due to a change in personnel but rather that the figures for crime in Colchester and in particular violent crime had risen by 2.7% and 6.9% respectively and it was against this backdrop that the application had been considered by the Police. Acting Chief Inspector White drew the Sub-Committee's attention to the evidence submitted by the Police and to the fact that Missoula featured in the top 6 premises for crime and violent crime although it was acknowledged that these figures should be considered alongside the footfall for each premises. It was the opinion of the Police that although the premises was well run and was one with which they had a good working relationship, it was inevitable that an increase in the licensed hours by 2 hours on a Thursday would lead to a rise in crime and disorder and public nuisance.

There was discussion by both parties of the initiative agreed at Pub Watch to limit increases in hours by licensed premises by not applying for Temporary Event Notices or permanent variations. The Police considered that the current application was not within the spirit of this agreement although Ms Eames commented that the variation had been submitted prior to the agreement being made and that the premises had recently withdrawn a TEN because of the agreement. Acting Chief Inspector White stated that early indications were that the initiative had resulted in a small reduction in crime levels which supported the view that increased opening hours resulted in increased crime and disorder and public nuisance.

## **The Decision**

*RESOLVED* to permit:-

- Hours the premises are open to the public (including any standard and non-standard timings) for the following hours-  
Mondays to Thursdays 09.00 to 01.30  
Fridays to Saturdays 09.00 to 03.30

Sundays 09.00 to 02.30

- To remove all conditions (save for mandatory conditions) from Annexes 3, 4, 5 and 6 of the premises licence except for the following conditions which are to be retained-
  - The maximum number of persons allowed to be present on the premises is 600.
  - An adequate drugs search policy to be in place to deter drugs and weapons entering the premises and an appropriate drugs safe box kept on the premises for the security of unlawful drugs seized or found by staff and kept secure until such times that Essex Police can dispose of those drugs lawfully.
  - No bottles or glasses to be taken off the premises.
- The amended Operating Schedule set out in the application be granted except for the deletion of the words 'where available' in condition 2 of Box b so that the condition reads 'toughened drinking glasses to be used at all times the premises are open to the public.'

### **Reasons for the determination**

The Sub-Committee considered the guidance issued under section 182 of the Licensing Act 2003 as amended and its own policy. In arriving at the decision the Sub-Committee considered the submissions made by both parties very carefully noting the representations, arguments and evidence presented.

The applicant's representative submitted that the statistics demonstrated good practice at the premises and that a number of the incidents could not be directly attributed to the premises. The Sub-Committee however gave due weight to the evidence submitted by the police and was of the opinion that it demonstrated in the event that the licence was varied to permit the additional 2 hours on a Thursday evening the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance would be undermined. It considered that the concerns of Essex Police could not be addressed adequately by the applicants' operating schedule and that there were no additional conditions to mitigate the effects of permitting the additional hours. Against the ongoing background of incidents at the premises the Sub-Committee was concerned at the increase in licensable hours and that to permit a further extension until 03.00 was not justified by the application in view of the evidence presented by Essex Police.

## **4. Close of Meeting**

The meeting closed at 12.45.

**Chairman:**

# COLCHESTER BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

24 August 2012

### MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 24 August 2012 at 10.00 in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present:- Councillor Blandon  
Councillor Cope  
Councillor Hazell

#### 1. Membership

*RESOLVED* that Councillor Cope be appointed Chairman.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Minutes

The minutes of the meetings held on 9 and 27 July 2012 were noted and confirmed as correct records.

#### 4. 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.

- **Queen Street Continental and Convenience Store, 38 Queen Street, Colchester**

The Sub-Committee considered an application for a premises licence in respect of Queen Street Continental and Convenience Store to permit the supply of alcohol off the premises and the hours the premises were open to the public.

#### In Attendance

Applicant	Mr S. Alsulayman, Applicant's Representative Mr A. Karatay, Applicant's Son
Objector	Councillor J. Hayes (Castle Ward Councillor)
Licensing Authority	Mr G. O'Shea, Licensing and Enforcement Manager Mr C. Samuel, Legal Services Ms A Tuthill, Committee Services Assistant (Licensing)

Ms Tuthill gave a brief summary of the application and advised that a representation had been received from Councillor Hayes opposing the application on the grounds that if the

application were granted it would undermine the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

Mr Alsulayman presented the application on the applicant's behalf and informed the Sub-Committee that the store was due to become part of the Premier franchise. At this point, the applicant's representative sought and obtained permission from the Chairman to circulate advertising material hearing in respect of Premier Stores, in order to show the Sub-Committee that the store would sell a range of goods, not just alcohol, and that the premises would be a store for the entire community.

Mr Alsulayman informed members that the premises would sell wines and spirits but would not sell high ABV beers, and that cans of beer would not be available individually and would only be sold in packs. The applicant's representative advised members that all staff employed at the premises would be trained by Premier, that they were aware of the legal requirement not to serve alcohol to customers who appear drunk and also confirmed that the store would operate the Challenge 25 scheme. Mr Alsulayman added that the applicant, Mr Karatay, had run licensed premises which supplied alcohol, in Colchester for the last 5-6 years and had never had any problems. Mr Alsulayman informed members that he and Mr Karatay would be working at the premises most of the time, and that he (Mr Alsulayman) had managed and headed door staff at licensed premises in Essex and London. In response to Councillor Hayes' objection to the application, Mr Alsulayman commented that he believed that people wanting to get drunk, would be looking to buy single cans of beer of 10% ABV, which this premises would not supply. The issue of what was considered a high ABV was discussed and Mr Alsulayman said that he would be happy with selling beers which had a maximum ABV of 7.5%.

Councillor Hazell left the meeting at this point as she was unwell. The Chairman sought and obtained permission from the applicant's representative and the objector to continue with the Hearing with only two members of the Licensing Sub-Committee.

In response to members' questions, Mr Alsulayman informed the Sub-Committee that there would be two members of staff on the tills and one member of staff on the shop floor.

Councillor Hayes then presented her objection to the application and commented that she felt she needed to object to the application given the existing problems in the nearby St Botolph's Priory area. Councillor Hayes advised the Sub-Committee that she had experienced people drinking around the Priory and that it spoilt the enjoyment of the area for others. Having seen the Premier advertising material circulated by Mr Alsulayman, Councillor Hayes commented that she thought the alcohol was very cheap and that that, along with the hours applied for would make it easier for habitual drinkers to access alcohol. Councillor Hayes made reference to the 'Stress Area' designation however it was noted that this was not relevant to this application as it only related to 'on licensed' premises. Councillor Hayes commented that she believed that off-licences were contributing to problems with people coming into the area 'tanked-up' in the evenings. When asked by the Chairman, Councillor Hayes said that she felt that some of her concerns had been mitigated by the information provided by Mr Alsulayman in his presentation, but that she did not believe that it solved the problem of 'pre-loading', nor did she believe that selling cans of beer in multipacks as opposed to individually would discourage habitual drinkers.

References were made to an off-licence premises located nearby to this store which had recently opened and Mr Alsulayman commented that it was open for later hours than Mr Karatay was applying for, and that it had not received any objections. Mr O'Shea commented that the other premises was irrelevant to this application and that each application must be determined on its own merit.



## **The Decision**

*RESOLVED* to permit:-

- The supply of alcohol off the premises for the following hours-  
08.00 to 23.00 Mondays to Sundays inclusive.
- Hours the premises are open to the public –  
08.00 to 23.00 Mondays to Sundays inclusive.

## **Condition imposed by the Sub-Committee at the Hearing**

1. Any beers, lagers or ciders with an ABV content higher than 6.5% will not be sold in single cans but only in quantities of 4 cans or more.

## **Considerations**

The Sub-Committee noted that one relevant representation had been received from Councillor Hayes, Ward Councillor for Castle, concerning the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance, and that Councillor Hayes was in attendance at the hearing and spoke on her own behalf.

The Sub-Committee noted that there were no representations from any of the responsible authorities.

A request was made to the Chairman of the Sub-Committee and permission sought and obtained by the applicant's representative to the circulation of advertising material relating to Premier stores (which the Applicant's representative informed the Sub-Committee the shop was going to become) in order to highlight the other products that the shop would be selling and that the premises would be a superstore for everyone in the community.

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's representative and the interested party under the Licensing Act 2003.

## **Reasons for the determination**

The Licensing Sub-Committee carefully considered the application, the evidence presented and the objection received, and noted that there had been no representations from any of the responsible authorities.

The Sub-Committee was mindful that this was an application for a new premises licence and therefore the premises was not responsible existing incidences of public nuisance committed away from the premises and that these were outside the applicant's direct control. There was no evidence to suggest that granting the licence as applied for, with the condition imposed by the Sub-Committee would contribute to public nuisance or crime and disorder in the area.

The Sub-Committee was also reassured by assurances given on behalf of the Applicant that staff will be fully trained so as not to sell alcohol to persons who appear drunk, that Challenge 25 would be adopted and that there will be a refusals book available to be shown to Council Officers and the Police.

The Sub-Committee was satisfied that the concerns raised by Councillor Hayes were adequately addressed by the applicant's operating schedule and the additional condition imposed by the Licensing Sub-Committee. The Committee felt that the case made by Councillor Hayes in respect of the likely public nuisance and crime and disorder as a result of the application was not proved sufficiently to justify the refusal of the application.

The Sub-Committee was mindful that its decision must be an appropriate response aimed at the promotion of the licensing objectives and for the reasons stated above, the Sub-Committee was satisfied that the licence should be granted subject to the operating schedule, the condition imposed by the Licensing Sub-Committee and to the relevant mandatory conditions in the Licensing Act 2003.

## **5. Close of Meeting**

The meeting closed at 11.40.

**Chairman:**



Licensing Committee – 14 December 2012	Agenda Item 5
Premier Inn Colchester	FOR GENERAL RELEASE

<b>Premises</b>	Premier Inn Colchester Colnebank House 30 St Peter's Street Colchester CO1 1HY	Ward: Castle Stress Area: No Civica Ref: 078572 Author: Gary O'Shea
<b>Application</b>	Application for a new premises licence  To permit the supply of alcohol and the exhibition of films	Appendix 1
<b>Street Plan</b>		Appendix 2
<b>Responsible Authorities</b>	There are no objections from any responsible authorities	
<b>Interested Parties</b>		
Local Residents	Letters of representation from local residents	Appendix 3

<p><b>New Application for a Premises Licence</b></p> <p>To permit for non-residents of the hotel:-</p> <ul style="list-style-type: none"> <li>- 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</li> <li>- The premises to open at 06.00 and to close 30 minutes after the end of the sale of alcohol for non residents and their bone fide guests.</li> </ul> <p>To permit for residents of the hotel:-</p> <ul style="list-style-type: none"> <li>- The provision of films on the premises from 10.00 to 00.30 Mondays to Sundays inclusive</li> <li>- The provision of late night refreshment from 23.00 to 00.30 Mondays to Sundays inclusive</li> <li>- The sale of alcohol for 24 hours a day</li> <li>- The premises to be open for 24hours a day for hotel residents.</li> </ul> <p>Non standard timings –</p> <p>In the event that the hours above are not granted 10.00 to 00.30 on Fridays Saturdays, Sundays and Mondays of Bank Holiday weekends, Christmas Eve, Boxing Day, New Year's Day and All Saints Day 10.00 on New Year's eve to the terminal hour on New Years' Day</p>
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## **Colchester Borough Council’s Statement of Licensing Policy**

### **Assessing Applications**

**Boxed bold type** 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.

Paragraph **3.8** 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”.

The Policy goes on to add in paragraph **3.9** that “however, along with the great 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.**

### **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.**

13 objections based on the grounds of public nuisance were received to the original application. Following the reduction in hours for licensable activities, 7 objections were withdrawn and of those that remain two have not responded to the Licensing Authority’s request for confirmation that they wish to maintain their objection. These letters are shown as the first two of Appendix 3. The Sub-Committee will note that the concerns raised in the letters have been addressed by the applicant’s reduction in hours for licensable activities.

The remaining four letters of objection cite the grounds of public nuisance as the reason for their representation and express concern that by granting the application there will be an increase in noise and disturbance to local residents. One of the residents mentions that they are already disturbed by patrons from other premises making their way home through the area and consider that this will be made worse by the presence of the Premier Inn which will attract people to it. There is concern at the noise that may be caused by customers leaving the premises and that caused by vehicle movements at the hotel. Mention is also made that this is a quiet area at night.

### **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.**

### **Late Night Refreshment**

Paragraphs **3.50** and **3.51** of the Council's statement of Licensing Policy state that "all premises selling hot food or drink for consumption either on or off the premises between the hours of 11.00pm and 5.00am will require a premises licence. The same requirement to hold a licence will also apply to burger/hot dog/fast food vans trading after 11.00pm and up to 5.00am the following day. There are limited exemptions in certain circumstances to such a requirement. These are explained in Appendix 5 of the Policy, along with the definition of what constitutes a licensable activity for the sale of hot food and hot drink between the hours of 11.00pm and 5.00am".

Paragraphs **3.52** and **3.53** of the Policy state that "the Licensing Authority is concerned that premises offering hot food and drink between the hours of 11.00pm and 5.00am, either for consumption on or off the premises, often attract large groups of customers seeking refreshment after the pubs, clubs, bars or nightclubs have closed. Many of these customers may have consumed alcohol excessively before seeking this refreshment. The combination of the effects of alcohol combined with the congregation of large groups of people both in and around these premises can and often does lead to violence and disorder, or to unacceptable levels of noise and disturbance for local residents. Police and residents have both expressed concerns over the levels of alcohol related violence, anti-social behaviour, noise and disturbance that emanates from or around the vicinity of fast food takeaways".

Paragraph **3.54** of the Council's statement of Licensing Policy states that "the consumption of food outside take-aways and mobile fast food vans also often results in unacceptably high levels of food waste and litter being deposited onto the street. This can occur to such an extent that it is the cause of public nuisance and cost to residents and the Council in litter and food being removed and cleaned from these pavements and roads".

Paragraph **3.55** of the Policy states that:

**The Licensing Authority will therefore seriously consider any relevant representations made by the Police, responsible authorities or any other interested party such as local residents, to limit the opening hours of fast food take-away premises or any other action that is reasonable and proportionate in relation to the level of the complaint made. This would apply either in the area identified as a cumulative impact or stress area, or anywhere else in the Borough where it can be reasonably established that the late opening hours of such an establishment are attracting or leading to violence, crime and disorder, anti-social behaviour or noise and disturbance to the detriment of the living and working conditions of local persons.**

Paragraph **3.56** of the Policy states that:

**Where relevant representations have been made, the licensing authority will where necessary impose conditions on the licence, such as a limitation on opening hours or other measures, in order to promote the licensing objectives of the prevention of nuisance or crime and disorder.**

Paragraph 3.57 of the Policy states that:

**Such measures may include for example the employment of SIA registered door staff for the prevention of crime and disorder, digital CCTV cameras and litter picking around the immediate vicinity of the premises. This list is not exhaustive and other measures may be requested by the Police, responsible authorities or local residents for example.**

### **Diversity of Premises**

Paragraph 3.86 of the Council's statement of Licensing Policy states that "Colchester's STAND (Strategy to Tackle All Night-time Disorder) initiative highlighted that too many single-use premises in a confined area, combined with patrons turning out of licensed premises all at the same time, create the potential for alcohol related violence, crime, disorder, anti-social behaviour, noise and disturbance. It therefore recommended a mixed use of venues, providing a variety of entertainment for a wide-ranging age group across a wide choice of opening hours".

Paragraph 3.87 of the Policy states that:

**The Licensing Authority believes that genuine diversity would provide buoyancy against changing markets and trends and attract a more diverse range of customers from different age groups who have different interests and attitudes toward the consumption of alcohol. It would also provide the potential for positively changing the ambience of Colchester Town Centre, which in turn may have a positive effect on reducing the fear that residents and visitors alike have of crime and disorder in the town centre, especially in the evenings or late at night.**

Paragraph 3.88 of the Policy states that:

**It is also to be hoped that such a positive outcome would lead to an increase in the number, age and diversity of visitors to Colchester in the early evening and also late at night, which in turn may have a beneficial effect on reducing alcohol related crime and disorder and therefore also benefit the overall evening and night-time economy scene in Colchester town centre as a whole.**

### **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.

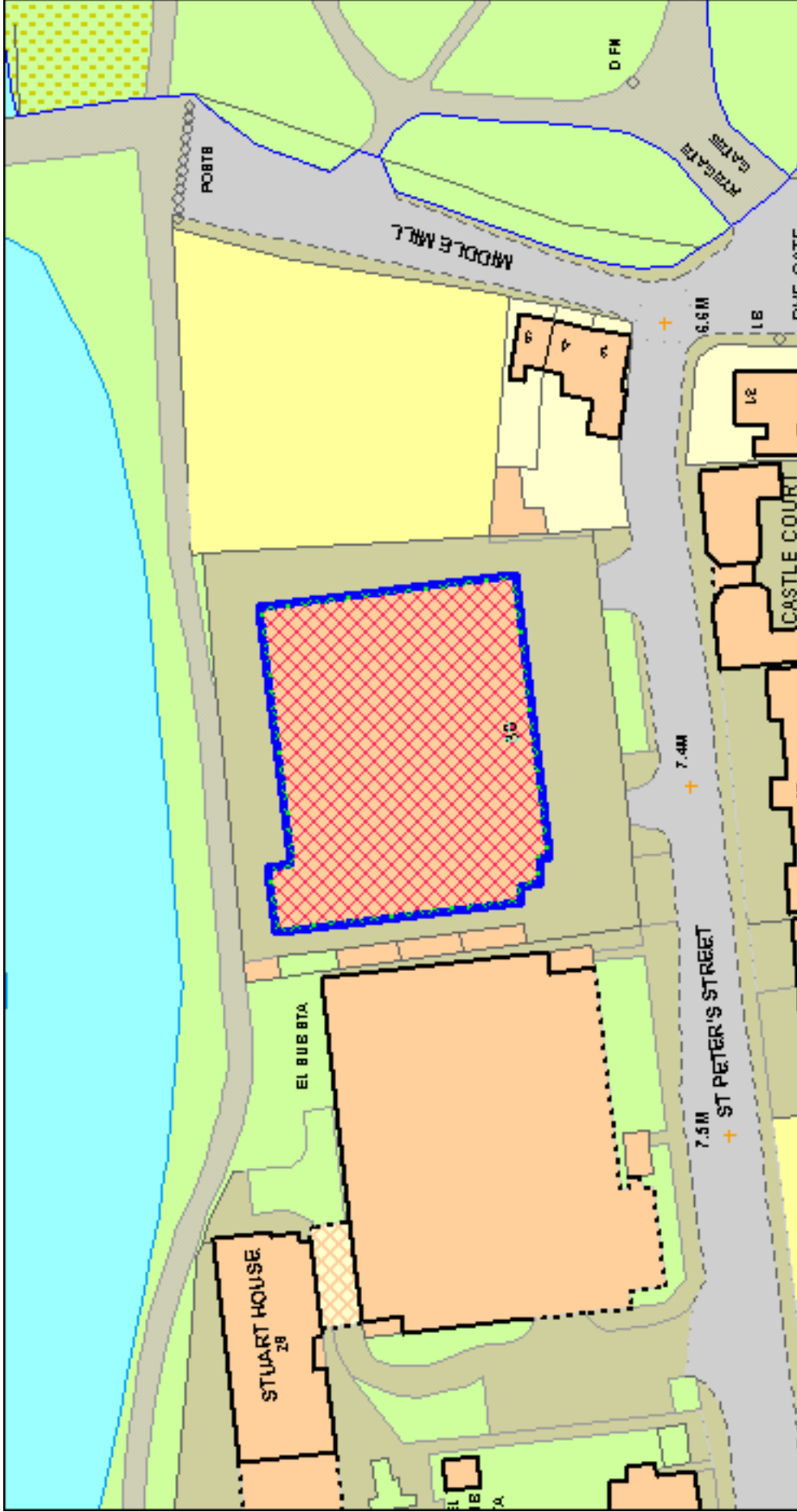
### **Crime and Disorder Implications**

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: 078572

Premises Name & Address: Premier Inn Colchester Colnebank House 30 St Peters Street Colchester

Date Produced: 30 November 2012

MAP NOT TO SCALE

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