

Licensing Sub-Committee Hearings

Friday, 25 November 2016

Attendees: Councillor Nick Cope, Councillor Dave Harris, Councillor Mike Hogg
Substitutes: No substitutes were recorded at the meeting

1 After Office Hours - Application to vary the premises licence

Councillor Hogg (in respect of his position as a personal licence holder and his position at the Oak Tree Centre) declared his non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure 7(5).

The Head of Professional Services submitted a report in relation to the following premises licence variation application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

- After Office Hours, High Street, Colchester

The Sub-Committee considered objections to the variation of a premises licence application which had been received in respect of After Office Hours at 128 High Street, Colchester to permit –

- The provision of late night refreshment and the sale of alcohol for extended hours on a Thursday, Friday and Saturday

In Attendance

Ms Cochrane, solicitor for the applicant

Mr Innes, applicant

Mrs Harrington, Licensing Authority Responsible Authority representative

Mr Murray, Dutch Quarter Association

Mr Clifford, Democratic Services Officer

Mrs Gentry, Democratic Services Officer

Mrs Ozono, Legal Services

Mr Ruder, Licensing Food Safety Manager

Mrs White, Licensing & Committee Co-Ordinator

Mr Ruder outlined the application to which objections had been lodged by local

residents, the Dutch Quarter Association and the Licensing Authority, acting in its capacity as a responsible authority. Following the receipt of representations and consultation with the Police Licensing Officer the application had been amended to withdraw the provision of live music for extended hours and the application in front of the Sub-Committee was therefore for the sale of alcohol and late night refreshment on Thursdays, Fridays and Saturdays only until 02.00; changes to the conditions of the licence were also sought to allow children on the premises until 18.00 and to remove those conditions now covered by the mandatory conditions.

Ms Cochrane outlined the application and explained that the additional hours were being sought at the request of customers who wished to stay in the premises a little longer than current hours permitted and there was no intention to change the way the premises was operating. The extension sought was an hour on Thursday nights and half an hour on Friday and Saturday nights. The applicant was unaware of any problems with the premises and therefore did not consider that the extension was likely to undermine the licensing objectives. Ms Cochrane set out in detail the conditions currently on the licence and explained that in light of the fact there had been no reported problems at the premises, they did not consider it necessary to add any further additional conditions to mitigate the extended opening hours. It was not anticipated that the change in hours would increase the number of people in the area but rather that it would help prevent migration between venues by keeping patrons in the premises until it closed. Reference was made to the fact that later hours were being operated by other premises in the area. Ms Cochran referred to the premises operation and the fact that it was a good neighbour, attending the recent meeting of Pubwatch.

In response to questions from the members of the Sub-Committee Mr Innes responded that they had recently introduced a further measure in relation to the collection of glass to ensure that all glass broken when the glass bins were emptied was removed and the area swept clean. Ms Cochrane expressed the view that problems referred to by the residents were not necessarily caused by patrons of After Office Hours as it was a gathering point for people because of McDonalds and the taxi rank. Mr Innes would be happy to have a dialogue with local residents so any matters of concern could be addressed quickly.

With regard to the request to remove the condition concerning children and replace it with one allowing children on the premises until 18.00, it was explained that they wanted to be able to have families on the premises and this was precluded by their existing conditions.

Mrs Harrington addressed the Sub-Committee on the Licensing Authority's representation and explained that the hours requested were outside of those outlined in the Policy for the Old Town Zone and as such the Policy indicated that exceptional circumstances should be demonstrated to justify departure from the Policy. In response Ms Cochrane drew the Sub-Committee's attention to the request from existing patrons

that the premises be open for longer hours.

Mr Murray then addressed the Sub-Committee on behalf of the Dutch Quarter Association and outlined the problems experienced by residents living in the Dutch Quarter. Mr Murray questioned Mr Innes on his lack of engagement with local residents and this point was further discussed by the Sub-Committee who welcomed meaningful dialogue between the premises and local residents and the circulation of a telephone number to enable residents to report any issues with the premises. Ms Cochrane commented that much of the concern raised by residents was in relation to general problems in the area and not specifically attributable to After Office Hours.

RESOLVED that the application

- (i) To remove those conditions duplicated by the mandatory conditions be approved.
- (ii) To remove the condition requiring all customers to be over 21 and to permit children on the premises until 18.00 daily be approved.
- (iii) To amend the hour for all licensable activities on a Thursday, Friday and Saturday, a Sunday preceding a statutory bank holiday, and on the occasion of British summertime be refused.

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, the Licensing Authority, the Dutch Quarter Association and the written representations of local residents under the Licensing Act 2003 and had regard to the Section 182 Guidance. The Sub-Committee also considered the application having regard to its own Policy and the special policy for the Old Town Zone in which the premises was situated.

The Sub-Committee considered whether the evidence presented justified departure from its Policy and had regard to the evidence presented by the Applicant. It noted that the justification advanced by the Applicant for a departure from policy centred on the request from patrons of the premises to open for longer hours and on the premises being well run with no known complaints. In relation to this the Sub-Committee found that the evidence presented in relation to being a well-run premises and good neighbour was no more than was expected of a well-run premises and the quality of the management of a premises was not a grounds for departure from the policy. The Sub-Committee noted that there was no evidence to support the fact that a request for extended hours had been made by patrons of the premises and the fact that other premises in the vicinity already had later hours was not a justification for granting similar or extended hours.

