

COLCHESTER BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

16 October 2015

MINUTES OF PROCEEDINGS

At a meeting of the Licensing Sub-Committee held on 16 October 2015 at 10.00am in the Grand Jury Room, Colchester Borough Council, Town Hall, High Street, Colchester

Present: - Councillor Cope
Councillor Hogg
Councillor Lilley

1. Membership

RESOLVED that Councillor Lilley be appointed Chairman.

2. Declarations of Interest

Councillor Hogg declared his non-pecuniary interest in the following matter because of his involvement in the Oak Tree Centre.

3. Licensing Application

The Head of Professional Services submitted a report in respect of the application to vary the premises licence in respect of the Premier Inn, Colnebank House, 30 St Peter's Street, Colchester, in accordance with the provisions of the Licensing Act 2003.

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

In Attendance

Mr Gaunt, solicitor for the applicant
Ms J Stewart, New Openings Manager

Councillor Hayes, objector
Mr D Murray, Dutch Quarter Association, objector
Mr Webb, objector
Mr Hearn, objector

Mrs S Riley, Environmental Protection

Mrs S Harrington, Planning & Licensing Manager
Mrs A Ozono, Legal Services
Mrs White, Licensing & Committee Co-Ordinator

Mrs Harrington outline the application and explained that in response to objections that had been lodged, the applicant had amended the application to reduce the number of covers in the external area to 28 and to add a condition on the licence that the premises shall not sell alcohol or food for consumption in external areas after 22.00. As a result of these changes,

the objections lodged by both the Planning Department and Environmental Protection had been withdrawn. The amended plan showing the reduced number of covers in the proposed area and a letter setting out the amendments to the application had been circulated to all parties in advance of the hearing. It was noted that there would be no music outside and no provision for playing music outside.

18 letters of representation had been received from interested parties and Mr Gaunt addressed the points raised in the objectors' letters. He confirmed, in response to concerns regarding to public safety along the riverbank, that the site was enclosed and there was a 6 foot high fence to separate the premises from the riverbank. He further mentioned that the external area could only be accessed from within the premises and was therefore unlikely to be attractive to the general public. A planning condition required that the external doors be shut by 23.00. Mr Gaunt drew the Sub-Committee's attention to condition 13 of the existing licence which required that noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties. He considered that this gave residents complete protection from disturbance. In addition, the Premier Inn brand offered a guaranteed quiet night to guests and money back if they were disturbed therefore it was in the company's best interests to ensure that noise from this area was kept to a minimum. A plan showing the area to be licensed was shown to the Sub-Committee by the applicant's representative. The area to be licensed was shown in red and was a contained area.

In response to questions Mr Gaunt confirmed that there would be no music outside and no loud speakers. The only music provided in the bar area would be low level background music. The building did not have a function room and it was not intended to use TENs to extend the hours with the possible exception of New Year's Eve. The provision of food was discussed and Mr Gaunt explained that in determining what to provide at each location, Whitbread looked at what was available around the premises. In this case it had been determined that there was an abundance of venues offering food and drink in the Town Centre and therefore there was only a limited provision for food.

Mrs Riley addressed the Sub-Committee on the representation made by Environmental Protection and the conditions that had been agreed. The reductions in hours and covers had been sought because the original application had been considered too intensive for the location. The World Health Organisation says that night starts at 23.00 but as people go to bed earlier than this a 22.00 restriction was agreed. The protections offered by the review process and the services of the weekend noise service were outlined.

The objectors then addressed the Sub-Committee expanding the points made in their letters. The underlying concern was that the premises was located in a quiet residential area and that the licensing objective of the prevention of public nuisance would be undermined by granting the licence as applied for. There was some discussion on the relationship between planning and licensing and concern that undertakings given in relation to planning appeared to have been undermined by the licensing application. The Sub-Committee noted that the planning and licensing regimes were separate and any licence granted under the Licensing Act 2003 would not override the need to comply with planning conditions. Two photographs showing the view from a flat in Stuart House were circulated by Mr Webb.

In responding to the concerns of the objectors Mr Gaunt mentioned that there would be CCTV on the premises including the outside area and that recordings would be held for 31 days. He apologised for the fact that the outside area had been labelled a beer garden and confirmed that this was not the intention for the area. The position in relation to smoking was discussed. It was considered likely that patrons would smoke outside the front of the building under cover, or in the car park or on the outside terrace area. Where people

smoked was largely outside the control of the hotel but by designating an area they could exert a limited level of control. It was mentioned that by applying to licence the area for the sale of alcohol it would be subject to certain controls which could not be imposed if it were not licensed. .

RESOLVED that -

(i) That the application to extend the licensed area, as set out on Plan E and outlined in red, be granted subject to the following conditions –

- There shall be no more than 28 external covers.
- The number of people in this area should be limited to the number of covers excluding staff.
- The premises shall not sell alcohol or food for consumption in external areas after 22.00.
- A no smoking sign should be displayed in the designated external area.

(ii) Condition 2 on the licence be amended to read “Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in the hotel bedrooms and in any external area provided for that purpose”.

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 and objectors under the Licensing Act 2003 and had regard to the Section 182 Guidance and to its own licensing policy.

The Sub-Committee had regard to the concerns raised by the objectors in relation to the public nuisance some of which had been addressed by the applicant who clarified that the external area could only be accessed through the hotel and there was a six foot fence in place alongside the river. The Sub-Committee was mindful that this was not a planning application and that planning matters were outside its remit.

The Sub-Committee considered that the external area was for food and drink as had been outlined by the applicant and that smoking in this area was not appropriate. It recommended that patrons should be directed to the car park area by way of appropriate signage.

The Sub-Committee was mindful that its decision must be based on evidence and must be an appropriate and proportionate response aimed at the promotion of the licensing objectives. The Sub-Committee therefore determined that it was appropriate to grant the application subject to the addition of the conditions as set out.