



Licensing Committee – 22 December 2015	Agenda Item 6
The Waiting Room, Bus Station Queen Street Colchester	FOR GENERAL RELEASE

Premises	The Waiting Room, Bus Station Queen Street Colchester	Ward: Castle Stress Area:yes Civica Ref: 087479 Author: Jon Ruder
Application	Application for a new premises licence to permit the supply of alcohol and the provision of regulated entertainment and entertainment activities as follows- Performance of plays Exhibition of films Live music Recorded music Performance of dance Late night refreshment	Appendix 1
Street Plan		Appendix 2
Responsible Authorities	Comments from Environmental Control – agreed by the applicant	Appendix 3
Interested Parties		
Local Resident	Representations	Appendix 4

New Application for a Premises Licence

The original application at Appendix 1 has been amended following discussions with Environmental Control and is now as follows -

- Sale of alcohol on and off the premises and the provision of films as follows –

Mondays to Thursdays from 09.00 to 23.00

Fridays and Saturdays from 09.00 to 01.00

Sundays from 09.00 to 22.30

- Provision of plays, live music, recorded music, performance of dance and anything of a similar description as follows –

Fridays and Saturdays from 09.00 to 01.00

- Provision of late night refreshment as follows –

Fridays and Saturdays from 23.00 to 01.00

- The premises to be open to the public for the following hours-

Mondays to Thursdays from 09.00 to 23.00

Fridays and Saturdays from 09.00 to 01.00

Sundays from 09.00 to 22.30

Subject to the additional conditions agreed with Environmental Protection –

- No outside activity is permitted after 9pm.
- All internal amplified sound will be restricted by the installation and use of a noise limiting device.
- All doors allowing access and egress to the premises will be self-closing and will be maintained as such, and kept free from obstruction, at all times thereafter. All doors and windows to be kept closed after 21:00.
- A sheltered gated garden to the rear of the premises, between the Waiting Room and Firstsite, will be used as a smoking area after 9pm

Policy Guidelines – The Waiting Room

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.

One letter of representation has been received from a resident living in the vicinity of the premises. The representation is shown at Appendix 4. Because there have been changes to the application the email exchange is shown (for members of the Committee only) as this gives more information on the case made by the resident. The concerns relate to the possibility of noise nuisance from the premises in the event that the licence is granted.

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.**

There have been no relevant representations received from any of the relevant responsible authorities or any other interested party in regard to this licensing objective.

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.

Stress Area Policy

Paragraph 3.96 of the Policy states that:

After full consultation, the Licensing Authority will continue to apply a special policy relating to cumulative impact to the Queen Street/St Botolph's Street area of Colchester town centre. This area continues to be identified as being under stress because of the cumulative effect of the concentration of late night food and alcohol and entertainment premises, which results in serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses located in that area.

Paragraph 3.97 of the Policy states that "although the stress area policy is being maintained, each and every application to grant or vary a premises licence in this area will be considered on its own individual merits and in its own right and in relation and relevance to any representations received that are pertinent to the application and also to the licensing objectives. Applicants should be aware however that all applications received within the stress area may receive closer scrutiny from the responsible authorities, particularly from Essex Police, in order to ensure that the application will not have a negative impact on the licensing objectives, especially where the objectives of the prevention of crime and disorder and the prevention of public nuisance are concerned".

Paragraph 3.98 of the Policy states that:

The Special Policy applies to applications for new licences and to variations which are relevant to the licensing objectives. This may include extensions of hours or capacities at the premises. Applicants are expected to state in their operating schedule how it is proposed to ensure that the application will not add to the cumulative impact currently being experienced in the stress area. Their operating schedule is likely to receive the close scrutiny of responsible authorities.

Paragraph **3.99** of the Policy states that:

Where no relevant representations are received, the application will be granted. Where, however, relevant representations are received the application will normally be refused unless the applicant demonstrates that the application will not add to that impact. The Licensing Authority may attach further or modified conditions to the licence where this is necessary to meet those concerns. This Policy is not an absolute bar on new applications. Where relevant representations are received, the individual merits of the application will always be considered and a decision made as to whether it is appropriate to make an exception to the Policy.

Paragraph **3.101** of the statement of Licensing Policy states that “the Licensing Authority welcomes the provision of a diverse choice of alternative entertainment where this is suitable, in order to reduce or ameliorate the impact of clubs, pubs, bars and fast food takeaway outlets situated within the stress area”.

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.

Off Sales/Shops and Supermarkets

Paragraph **3.46** of the Policy states that:

The Licensing Authority recognizes that, in accordance with the Government's guidance, shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the hours that they intend to trade, provided that there is no negative impact on the promotion of the licensing objectives as a result.

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.