



Lewes District Council

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Licensing Sub-Committee

Minutes of a meeting of the **Licensing Sub-Committee** held in the **Warren Room, Lewes House, 32 High Street, Lewes** on **Tuesday, 13 August 2013** at 10.00am

Present:

Councillor J Stockdale (Chair on election)

Councillors P Gander and P A Howson

Officers Present:

Ms Z Downton, Committee Officer

Ms J Fletcher, Solicitor

Mr E Hele, Principal Environmental Health Officer

Ms S Lindsey, Licensing Officer

Applicant Attending:

Mr N Hyslop, Whitbread Group PLC

Applicant's Representative:

Mr J Gaunt, Licensing Solicitor, John Gaunt & Partners

14 Representors attended the meeting of which the following spoke against the Application:

Mr G Barker

Mr R Booty

Mr and Mrs J Curtis

Mrs A Garritt

Ms K Hardy

Mr V lent

Also present:

Ms J Adams, Environmental Health Officer

Ms M Hawes, Licensing Officer

Mr I Kedge, Head of Environmental Health

Minutes

Action

1 Election of Chair of the Sub-Committee

Resolved:

- 1.1** That Councillor J Stockdale be elected Chair of the Sub-Committee for this meeting.

2 Application for a Premises Licence for the Proposed Premier Inn, Former Magistrates Court, Friars Walk, Lewes.

The Chair of the Sub-Committee welcomed all parties to the hearing. Those attending introduced themselves and the procedure under the Licensing Act 2003 was read out to all parties present.

The Sub-Committee considered Report No 126/13 to determine the Application for a Premises Licence for the Proposed Premier Inn, Former Magistrates Court, Friars Walk, Lewes.

The Licensing Officer presented the Report to the Sub-Committee.

The Application related specifically to:

- The sale of alcohol for consumption on and off the premises from 10.00am until 12.30am (the following morning) Monday to Sunday and the sale of alcohol to hotel residents 24 hours a day. Should those hours not be granted, then to permit the sale of alcohol on Fridays, Saturdays, Sundays and Mondays at Bank Holiday weekends; Christmas Eve, Boxing Day, New Year's Day and All Saints Day until 12.30am (the following morning). Along with New Year's Eve from 10.00am to New Year's Day terminal hour.
- Late night refreshment indoors from 11.00pm to 12.30am (the following morning). Should the hours for the sale of alcohol be extended hereunder, these hours are also to be extended.
- The exhibition of films indoors from 10.00am to 12.30am (the following morning) from Monday to Sunday. Should the hours for the sale of alcohol be extended hereunder, these hours are also to be extended.

The Lewes Magistrates Court was purpose built in 1986 and functioned as such until its closure in March 2011. Since then, the premises had remained closed and unused. An application had been submitted to the South Downs National Park Authority on 24 May 2013 by Quora (Lewes) Ltd Killarney Comercio Internacional for the demolition of the existing courthouse buildings and redevelopment of the site for the erection of a mixed use development. The application comprised flexible retail and leisure uses at ground floor level and a 62 bedroom hotel on the first and second floors. The application was currently pending consideration.

The building was situated in Friars Walk, Lewes in the centre of the town and close to the town precinct with its variety of retail and food business premises. There were residential properties within 50 metres to the south of the site in Friars Walk and various business premises opposite. Behind the premises to the east was a public car park comprising approximately 80 parking bays.

There were three other public houses in the vicinity of the site and one wine bar, namely the Volunteer in Eastgate Street near Waitrose, the Lansdown Arms which was at the bottom of Station Street and the Symposium Wine Emporium a couple of doors away from the Lansdown Arms. Through the precinct and across from Cliffe Bridge, Lewes was the John Harvey Tavern public house. Both the John Harvey Tavern and the Volunteer establishments opened for business until 12.30am on weekdays and until 2.30am and 1.30am respectively on weekends. The Lansdown Arms was open until 1.00am on weekdays and 1.30am on weekends and the Symposium Wines was open until 11.00pm Monday to Saturday and 10.00pm on Sundays.

The Council's Environmental Health department had received one complaint in the last two years relating to public nuisance in Friars Walk, Lewes. That complaint had been received at the beginning of July 2013. Sussex Police had received approximately 7 calls regarding antisocial behaviour in the vicinity of the site since January 2013.

29 letters and 3 emails had been received within the relevant 28 day notice period from members of the public who wished to make representations about the Application. Copies of their letters, emails and objections were set out in Appendix 8 of the Report. The objections related to the four licensing objectives, namely prevention of public nuisance, the prevention of crime and disorder, public safety and the protection of children from harm, and the promotion of which would be taken into account when licensing decisions were being made by the Council. The Licensing Officer explained that two late representations received had been accepted by the Applicant. A copy of the late representations had been circulated prior to the meeting to all parties, a copy of which is contained in the Minute Book. It was noted that no representations had been received from the responsible authorities.

Drawings of the layout of the premises, indicative site plans and example photographs of the internal layout were included under Appendices 1 – 7 of the Report.

An Operational Statement, licensing drawing with indicative seating layout, example photos of the 'The Kitchen' restaurant in the Leicester Square premises and sample menus had also been submitted by the Applicant and circulated to all parties prior to the meeting. Copies of which are contained in the Minute Book.

The Sub-Committee expressed its thanks to the Licensing Officer for providing a comprehensive Report. Members of the Sub-Committee and the Applicant's Representative confirmed they had no questions to ask the Licensing Officer regarding the Report. The Principle Environmental Health Officer confirmed that no representation had been made by the Council's Environmental Health department in relation to the Application.

The Sub-Committee invited the Representors present to ask questions to the Licensing Officer regarding the Application. In response to questions

that were relevant to the Application, the Licensing Officer advised the following:

- The floor plan would become an integral part of the licence applied for. Should the licence be granted, and the Applicant subsequently decided to add a bar to provide vertical drinking then an Application for a Variation to a Premises Licence would need to be submitted to the Council and the application would be considered in accordance with the standard procedure.
- Mr Gaunt, Applicant's Representative clarified, as invited to by the Licensing Officer, that as the showing of films and non-live television was a licensable activity, it had to be included in the Application. He confirmed that pornography would not be accessible on televisions within the premises and although the Whitbread Group PLC offered Wifi on its premises, there would be filters in place to prevent the downloading of such material.

The Sub-Committee invited the Applicant to present his case. Mr Gaunt, on behalf of the Applicant, acknowledged that there was a degree of local hostility to the Application and the Applicant understood and appreciated those concerns. He highlighted that the license being applied for was separate to the planning application and therefore only considerations that were relevant to the licensing objectives should be expressed. He also requested that concerns raised would need evidential support and should not be speculative. He felt that any concerns raised by representors against the Application must relate to the detail of what was being proposed. He had judged by the objections made that there was a fundamental misunderstanding of the proposals, in as much as a 62 bedroom hotel was proposed with limited non-residential trade, however there would be no bar servery and therefore no provision for vertical drinking.

Mr Gaunt explained that Premier Inn, part of Whitbread Group PLC, operated in different formats, such as with a pub attached or as a stand-alone premises providing an integral service. He explained further that what was being proposed in Lewes was slightly different being termed as a 'small-format' premises offering a limited food and beverage service. Such a format was suited to towns such as Lewes, for guests who wished to explore the town's facilities and for those who wished to remain in the sanctuary of the hotel. He referred to the Operational Statement which had been circulated prior to the meeting and had been intended to clarify the use and operation of the proposed food and beverage area within the hotel, in response to public comments received during consultations for the premises licence. A copy of which is contained in the Minute Book.

Mr Gaunt drew attention to paragraph 1.5.2 of the Report and highlighted that other units at ground floor level, as identified on the general arrangement plans, formed no part of the Application. The Application related to the first floor only as shown on Drawing No 3318/L01, Appendix 1 of the Report. He explained that the site would be badged, signed and

advertised as a Premier Inn and that there was no intention to separately advertise the food and beverage operation.

Mr Gaunt wished to make it absolutely clear that there was to be no provision for vertical drinking on the premises. The food and beverage area would have no bar counter and all food and beverages would be ordered at and served to the table. Hotel guests would be permitted to take alcohol back to their bedrooms for consumption, but there would be no question of people leaving the premises with alcohol. Mr Gaunt explained to the Sub-Committee that the Applicant would be happy for an additional condition to be added to the licence, if granted, to make this point explicit.

In response to some representations inferring that the premises would be another 'drinkers' pub', Mr Gaunt expressly stated that this was not the case; the proposal was for a Premier Inn hotel and the first regard was therefore for the comfort and safety of the hotel's guests. He referred to the Premier Inn's "good night guarantee" scheme under which any overnight guest would get a refund for their overnight stay if their sleep was disturbed.

In anticipation of questions relating to the need for non-residential access and use of the premises, Mr Gaunt explained that it was normal practice of Premier Inn to allow this at all its hotels and as such, there was also an expectation by the public of what facilities would be made available. The proposals for the Lewes premises would provide flexible space for non-residential use, such as for meetings or for passing restaurant customers, although it was noted that non-residential access was not a significant proportion of the trade.

Mr Gaunt highlighted that it was of importance to the Applicant's case that no representations had been made by any of the responsible authorities. Mr Gaunt considered that 7 calls made to Sussex Police regarding antisocial behaviour in the area since January 2013 was a very low number of reported incidents and indicated that it was not a problem area. In reference to the opening hours of public houses in the vicinity of the site, as detailed in paragraph 2.2 of the Report, Mr Gaunt explained that, even with operating hours until 12.30am, the proposed Premier Inn would not be the late night premises to go to as other premises were able to stay open later.

Mr Gaunt explained that although vicinity was no longer a prerequisite to making a valid representation, the impact, or perceived impact of the premises on each objector was something he would have to address and as such he had plotted the residences (where known) of the representors on a map. Copies were tabled at the meeting and had previously been sent to all parties. A copy of which is also contained in the Minute Book. In Mr Gaunt's view, most of the representations made were at least half a mile from the site of the proposed hotel. He calculated that some representors would barely be able to see the premises and, in terms of impact, he considered the distance away from the site to be of significance. Mr Gaunt urged the Sub-Committee to consider the geographical location of the representations made and to balance the matters and concerns raised in relation to the

licensing objectives.

Mr Hyslop, Whitbread Group PLC, confirmed he had no further comments to add. The Sub-Committee also confirmed it had no questions to ask the Applicant or Applicant's Representative.

The Sub-Committee invited the Representors in attendance to ask questions to the Applicant's Representative.

Mr lent, who had made a representation against the Application, stated that it was unfair of Mr Gaunt to burden the Sub-Committee with spurious points concerning the validity of people's representations based on their vicinity to the premises. Mr Gaunt responded that whereas the matter of vicinity used to be a pre-requisite to making a valid representation, geography remained a matter for consideration. He continued that he did not wish to suggest that a person living outside of the immediate vicinity of an application did not have the right to make a representation, although the weight of that representation should be proportionate when considering the impact. Mr Booty, who had made a representation against the Application, agreed with Mr lent and added that Mr Gaunt's stance on vicinity was condescending and that, for example, Mr Gaunt did not consider that people returning to vehicles parked further away from the premises could still disturb residents. The Sub-Committee noted those points made.

Ms Hardy, who had made a representation against the Application, asked whether the restaurant would have a separate name to the Premier Inn and if it would be advertised externally. In response, Mr Gaunt explained that the restaurant area would be branded 'The Kitchen', but within the premises only. From the outside the premises would be advertised solely as a Premier Inn. In terms of marketing, he further explained that Whitbread Group PLC did not use flyers to promote the opening of a new premises as this was predominantly done on its website.

Ms Hardy also questioned why the residents of Friars Walk had not been consulted about the licence application. Mr Gaunt responded by explaining that the application process for a premises licence differed from the planning application. The requirements for the licence application had been fully complied with.

Mr Barker, who had made a representation against the Application, asked whether the Applicant could guarantee that it would not add a brewery to the premises in the future. Mr Gaunt offered assurances that the addition of a Brewer's Fayre, as a typical example, would not work logistically on the first floor level. He also added that Whitbread Group PLC had no intention in developing the other ground floor units within the building, which were not part of the licence being applied for.

Mr Booty, who had made a representation against the Application, asked whether the kitchen operating hours and the bar servery operating hours applied for could be the same. In response, Mr Gaunt explained that there had to be a difference in opening hours for operational purposes to enable

hotel guests, for example, to be able to order beverages whilst they were waiting for their food order to be served.

Mrs Garritt, who had made a representation against the Application, asked what was meant by 'impact' and whether the Application would be assessed on the impact on individuals or the community. In his opinion, Mr Gaunt felt that a representation was bound by its content and representors had to determine impact, whether that was on themselves or the community. The Principle Environmental Health Officer advised that the impact on the four licensing objectives was of concern when determining a licence application. The Sub-Committee confirmed that they would have full regard to all evidence put forward and also to the four licensing objectives when making its decision on the Application.

In reference to paragraph 2.3 of the Operational Statement, Mr Curtis, who had made a representation against the Application, questioned whether there would potentially be enough tables and seating to accommodate all hotel guests. Mr Gaunt responded that Whitbread Group PLC was confident in its business model and would not provide what was not operationally feasible. It was noted that this issue was not pertinent to the licence Application.

The Sub-Committee invited the Representors in attendance to present their cases. Mr Echalaz and Mr & Mrs Curtis, who had made representations against the Application, stated that they had no further comments to make.

Mr Booty, who had made a representation against the Application, wished to clarify that, in terms of impact of the proposals, the representors were not representing just themselves, but were thinking of what was best for the whole town and the community.

Mr lent, who had made a representation against the Application, asked that the Sub-Committee took into account the licensing objectives.

Ms Hardy, who had made a representation against the Application, explained that she resented that it had been misinterpreted by Mr Gaunt that the representations referred to the individual impact of the proposals and not collectively on the impact on the community. She explained that she had consulted with every resident on Friars Walk. She felt that the number of reported incidences of anti-social behaviour was relatively high for a town the size of Lewes, adding that almost nightly there was some kind of disturbance on Friars Walk. In her opinion, she felt that the nearest Premier Inn in Brighton and Hove City was a downmarket establishment and the reality was contrary to the image of the proposed premises being portrayed by Mr Gaunt.

In response to a question from the Sub-Committee, the Applicant's Representative confirmed that only bottled beverages would be served, and there would be no beer provided on tap on the premises.

The Applicant, Applicant's Representative and Licensing Officer confirmed they had no further questions or comments to make.

The Sub-Committee invited the Applicant to summarise their case. Mr Gaunt, Applicant's Representative, stated that there was clearly a lot of hostility towards the proposed development. However, he felt that there had been no evidence put forward which undermined the reputation of the Whitbread Group PLC. He reiterated that the majority of stand-alone Premier Inns operated with no difficulties and with sympathy towards the local community. He concluded that the proposals would not contravene the four licensing objectives, and he hoped that the Application would be granted.

The Sub-Committee withdrew to consider the Application. The decision was delivered as follows:

Resolved:

"Having regard to the terms of the application and all of the relevant evidence that has been put before us today, we have unanimously decided to deal with this application by GRANTING the application in its entirety subject to the conditions set out in the Licensing Officer's Report including an additional condition put forward by the applicant. The additional condition is as follows:

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'The Sale and Supply of alcohol within the licensed area shall be by waiter/waitress service to persons seated at tables. (This shall not prevent patrons taking drinks so dispensed to their hotel bedrooms'

The reason for our decision is that we are of the view that there is insufficient evidence to satisfy us of the need to amend or impose further conditions, other than those proposed by the applicant and set out in the Licensing Report, or to refuse the application.

The conditions are necessary, for the prevention of crime and disorder, the interests of public safety, to prevent public nuisance occurring, and to protect children from harm.

In reaching our decision, we took into account all the representations and submissions that were made. We also took into account the nature and location of the premises.

We considered the potential for public nuisance, crime and disorder, danger to public safety and the harm to children posed by the application and balanced this against the rights of local residents to peace and quiet.

We have recognised the concern of residents about vertical drinking and have included the condition put forward by the applicant requiring drinks to be served at tables. We have taken into account the potential impact on individuals and the community in respect of the four licensing objectives.

We did not attach any weight to the geographical location of any of the objectors or matters outside licensing issues, particularly planning matters. This is because they are not relevant to the licensing objectives and did not relate to the licensing application.

We also gave full consideration to the relevant terms of the Statutory Guidance as well as our own Standard Licensing Policy and relevant case law, in particular: R. (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates' Court 2008; Paragraphs 9.38 to 9.40 (Determining actions that are appropriate for the promotion of the licensing objectives) and paragraph 9.12 (Representations from the Police) within the Amended Guidance Issued Under Section 182 of the Licensing Act 2003, and the Guiding Principles of the Council's Licensing Policy set out in paragraph 5.

Furthermore, we would like to remind those present that under Section 51(1) of the Licensing Act 2003, the responsible authority or any other person may apply to the Licensing Authority at any time for a licence to be reviewed.

In any event, there is a right of appeal under the provisions of Section 181 and Schedule 5 of the Licensing Act 2003 against the decision of the Licensing Committee, should you be aggrieved at the outcome. This right to appeal extends to the applicant in the case of refusal or restrictions on the licence or imposition of conditions to the Licence. The right of appeal also extends to persons who have made representations either where the licence has been granted or, where they do not consider that relevant conditions have been imposed.

Full details of the right to appeal can be found within Schedule 5 of the Act.

Please note that any appeal must be made within 21 days of the notification of this decision."

The meeting ended at 12.15pm

J Stockdale
Chair