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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Wednesday 20 December 2017 at 10:30am in the Committee Room, Town Hall, Matlock.

PRESENT

Councillor Richard FitzHerbert - In the Chair

Councillors Graham Elliott and Stephen Flitter

Katie Hamill (Senior Solicitor), Eileen Tierney (Licensing Manager) and Simon Johnson (Democratic & Electoral Services)
Councillor Ann Elliott – attended as an observer

Michelle Hazlewood (Solicitor) - John Gaunt & Partners Solicitors
Nicholas Johnston (Acquisitions Manager) – Whitbread Group Plc.

Colin Bateman - Lumford & Holme Lane Resident's Association-
Objector

262/17 – ELECTION OF CHAIRMAN

It was moved by Councillor Stephen Flitter, seconded by Councillor Graham Elliott and

RESOLVED That Councillor Richard FitzHerbert be elected as Chairman of the
(Unanimously) Sub-Committee

263/17 – LICENSING ACT 2003 APPLICATION FOR PREMISES LICENCE: PROPOSED PREMIER INN, RIVERSIDE BUSINESS PARK, BUXTON ROAD, BAKEWELL DE45 1GS

The Sub-Committee considered an Application for a Premises Licence made by John Gaunt & Partners on behalf of Whitbread Group Plc., in respect of the proposed premises for a Premier Inn to be located at Riverside Business Park, Buxton Road, Bakewell DE45 1GS.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Committee to consider the application in private and confirmed that the Committee was quorate.

The Licensing Manager gave an outline of the application. The Committee and the other parties were afforded an opportunity to request clarification of the Licensing Manager's report.

Mr Colin Bateman was invited to make his representation to the Committee.

The Committee had an opportunity to question Mr Bateman. The representative of Whitbread Group Plc., Michelle Hazlewood of John Gaunt Solicitors, was also afforded the opportunity to request clarification of any points.

Ms Hazlewood then presented her case on behalf of Whitbread Group Plc along with Mr Nicholas Johnston of the Whitbread Group Plc.

The Committee had an opportunity to question Ms Hazlewood of John Gaunt & Partners Solicitors representing the Whitbread Group Plc. and Mr Nicholas Johnston of the Whitbread Group Plc.

All parties were afforded an opportunity to request clarification of any points.

The Committee Members confirmed that they had sufficient information to make a decision and withdrew into private session to discuss their findings.

264/17 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Steve Flitter, seconded by Councillor Graham Elliott and

RESOLVED
(Unanimously)

Decision

The Sub-Committee has heard from the Licensing Manager, Ms Eileen Tierney, Mr Johnston, the applicant, his representative Ms Hazlewood and Mr Bateman who objected to the application. The Sub-Committee has also considered the written representations appended to the Report.

Following careful consideration of the representations put forward the Sub-Committee has resolved to delegate authority to the Licensing Manager to Grant the application with conditions.

To ensure the promotion of the licensing objectives the imposition of the following conditions on the licence is necessary:

1. The sale of alcohol for consumption on and off the premises to non-residents shall be permitted Mondays - Sundays between 10:00 hours and 23:00 hours
2. The premises may remain open to permit the sale of alcohol to residents 24 hours a day
3. The Provision of regulated entertainment by way of Exhibition of Films (indoors) - shall be permitted Mondays - Sundays between 10:00 hours and 00:30 hours
4. The non-standard timings for the sale of alcohol and the provision of regulated entertainment shall be permitted each year from 10:00 hours on 31st December until 00:30 hours on 2nd January.
5. The non-standard timings for Late Night Refreshment shall be permitted each year from 23:00 hours on 31st December until 01:00 hours on 1st January.
6. The Premises shall be open 24/7 for residents. For non-

residents the premises will be closed to the public 30 minutes after the terminal hour for the sale of alcohol.

The Mandatory Conditions will be imposed in respect of:

- a. The supply of alcohol
- b. Irresponsible promotions
- c. Free tap water
- d. Proof of age scheme
- e. Requirement to make small alcohol measures available
- f. Sale of alcohol – duty + VAT
- g. Exhibition of Films
- h. Door Supervisors (will only apply if door supervisors are used)

In addition to the mandatory conditions the Sub-Committee has resolved to delegate authority to the Licensing Manager to attach conditions consistent with the applicant's Operating Schedule as set out in Appendix 2 of the Report.

A full decision notice will issued and sent out within 5 working days.

Full Decision Notice is attached below.

Meeting Closed 11.32am

LICENSING & APPEALS COMMITTEE DECISION (Licensing Act 2003)

**264/17 Record of proceedings of Derbyshire Dales District Council's
Licensing & Appeals Sub-Committee held on Wednesday 20 December
2017 at 10.30am**

Full name of Applicant: Whitbread Group Plc.

Premises Address: Proposed Premier Inn, Riverside Business Park, Buxton Road,
Bakewell DE45 1GS.

Reason for attendance at the Sub Committee: To determine an application for a
Premises Licence

CONSTITUTION OF COMMITTEE

Councillor Richard FitzHerbert (Chair)
Councillor Graham Elliott
Councillor Stephen Flitter

REPRESENTATIONS MADE BY

Colin Bateman – Lumford & Holme Lane Resident's Association

NAMES OF OTHERS PRESENT

Eileen Tierney – Licensing Manager
Katie Hamill – Senior Solicitor
Simon Johnson – Democratic & Electoral Services
Councillor Ann Elliott as an observer

PREMISES REPRESENTATIVES

In person

Michelle Hazlewood (Solicitor) - John Gaunt & Partners Solicitors
Nicholas Johnston (Acquisitions Manager) – Whitbread Group Plc.

1. The meeting was conducted in public, with the agreement of all parties.

The Sub-Committee withdrew into private session to consider its decision and were advised by the Sub-Committee legal representative that only evidence that was relevant to the four licensing objectives could be taken into consideration and that it was important that any conditions attached to a licence should be to promote the licensing objectives.

2. Chairpersons note of evidence (i.e. concise details of all oral and written details put before the Committee)

The Committee considered the report and the comments made by the Licensing Manager.

The Sub-Committee carefully listened to the representations from Mr Bateman who confirmed that he was present on behalf of the Resident's Association who had 27 fee paying members.

Mr Bateman made representations to the Sub-Committee that residents were concerned regarding general crime and disorder, however, explained that he accepted there was no evidence to support such concerns as the site was undeveloped and that these concerns were an expectation of what may occur.

Mr Bateman made representations regarding the public safety licensing objective relating to the road access to the Hotel and the neighbouring 20 properties. It was noted that the Highway Authority had made representations on this issue in respect of the recent planning decision and Mr Bateman explained that the Highway Authority had requested a condition to limit the access to the Hotel Restaurant & Bar to hotel residents only. Mr Bateman advised the Committee that the planning application was granted on appeal by the Planning Inspector who did not impose the condition sought.

He explained that the egress to the site is impeded and gave an example of an occasion in which he was required to reverse on seven occasions within 500 metres to enable other traffic to progress. Mr Bateman also advised that the access to the private road is of sub-standard construction and that it has a lax maintenance regime in which 41 potholes were filled within one sitting. The Sub-Committee heard representations explaining that the road is also sub-standard in geometry, it is too narrow, has no demarcation, street lighting or pedestrian crossing and that the resident's had concern for their safety if there is an increase in traffic as a result of this application. Mr Bateman stated that residents' gardens back onto the site and that there was concern for the safety of children and elderly residents.

Mr Bateman asked the Sub-Committee to consider the imposition of a condition to restrict the sale of alcohol to those who are resident at the hotel and that the bar is closed to the general public.

Mr Bateman sought to introduce new documentation at the meeting, however the applicant had not been able to review this information prior to the meeting to prepare a response and in the interests of fairness the parties did not consent to it being circulated further.

The Sub-Committee heard evidence from Ms Hazlewood representing the Whitbread Group PLC who explained that there were 750 Premier Inn premises within the Country and that one had recently been developed in Matlock. Ms Hazlewood advises that the company's intention was to mirror the Matlock operation which, to date, has had no noise concerns or issues reported.

Members of the Sub-Committee were informed by Ms Hazlewood that hotel was to be constructed over 4 floors with 70 rooms and that the planning application had been granted on appeal which imposed conditions to address the access to the premises. Ms Hazlewood accepted that more traffic would be generated but believed the noise would be contained within the car park away from the residential dwellings enabling the building to act as a buffer. It was intended that the reception would be manned 24 hours per day to

oversee and monitor comings and goings.

Ms Hazlewood advised that the restaurant size is dictated by the requirement to serve breakfast and that alcohol would be offered via a waiter service to diners via chilled cabinets. There would be no bar, pumps or independent seating area to suggest a sole purpose drinking establishment and that there is a high pricing policy to deter sole alcohol consumption. She advised that the offer of alcohol is an important part of the offer of Premier Inn and that it is not intended to be a place for revelry.

The Sub-Committee were informed by Ms Hazlewood that there were; no objections to the application by the Responsible Authorities, that the area is not listed as a cumulative impact area and that sufficient consideration has been given to conditions to promote the four licensing objectives. She advised that company has a strong compliance department who engage with residents and that the non-residents attending may use the premises for business conferences or families may congregate prior to weddings and as such the risk of noise would be low.

Mr Johnston on behalf of Whitbread PLC made representations to the Committee that it is rare for there to be issues from the Premier Inn brand and that the company do listen to residents' concerns and have agreed to reduce the hours of operation however asked the Sub-Committee not to impose restrictions on who can access alcohol on the property.

Ms Hazlewood asked Members of the Sub-Committee to review paragraphs 9.12 and 9.42 of the s.182 Guidance.

3. Findings of the Sub-Committee on questions of fact material to the decision (i.e. the relevant facts accepted from the evidence available)

The Sub-Committee found that:

- The Applicant had volunteered conditions within the Operating Schedule to address concerns relating to the four licensing objectives.
- The sale of alcohol at the premises was primarily intended for residents of the hotel and that the premises was not intended to solely be a vertical drinking establishment for members of the general public.
- The concern for crime and disorder and noise nuisance was speculative and there was no evidence of such behaviour currently within the area.
- There were no issues currently raised with the management of the existing Premier Inn within the District and Whitbread Group PLC were a responsible and reputable company who complies with their licensing conditions and obligations.
- No objections were received from the Responsible Authorities in respect of this application
- The access issue had been properly considered and addressed by the Planning Inspector who determined that the conditions suggested by the Highway Authority were not necessary as a safe and suitable access would be provided and public safety concerns were addressed through the planning regime.
- Granting of the premises licence in addition to the use currently permitted at the site would not undermine the objective of public safety and those attending solely to consume alcohol at the hotel would be under the influence of alcohol and less likely to use motor vehicles.

4. Full text of unanimous decision

Decision

The Sub-Committee has heard from the Licensing Manager, Ms Eileen Tierney, Mr Johnston, the applicant, his representative Ms Hazlewood and Mr Bateman who objected to the application. The Sub-Committee has also considered the written representations appended to the Report.

Following careful consideration of the representations put forward the Sub-Committee has resolved to delegate authority to the Licensing Manager to Grant the application with conditions.

To ensure the promotion of the licensing objectives the imposition of the following conditions on the licence is necessary:

1. The sale of alcohol for consumption on and off the premises to non-residents shall be permitted Mondays - Sundays between 10:00 hours and 23:00 hours
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6. The Premises shall be open 24/7 for residents. For non-residents the premises will be closed to the public 30 minutes after the terminal hour for the sale of alcohol.

The Mandatory Conditions will be imposed in respect of:

- a. The supply of alcohol
- b. Irresponsible promotions
- c. Free tap water
- d. Proof of age scheme
- e. Requirement to make small alcohol measures available
- f. Sale of alcohol – duty + VAT
- g. Exhibition of Films
- h. Door Supervisors (will only apply if door supervisors are used)

In addition to the mandatory conditions the sub-committee has resolved to delegate authority to the Licensing Manager to attach conditions consistent with the applicant's Operating Schedule as set out in Appendix 2 of the Report.

Reasons for Decision

Reasons for Decision

The Sub-Committee gave weight to the representation made by Mr Colin Bateman but were satisfied following the consideration of oral and written submissions on behalf of the Applicant, that the application should be granted.

The Sub-Committee noted that Whitbread Group PLC had taken steps to minimise potential disorder by way of the conditions volunteered in the Operating Schedule and had agreed to reduce the hours of operation of the sale of alcohol to non-residents of the hotel in this regard.

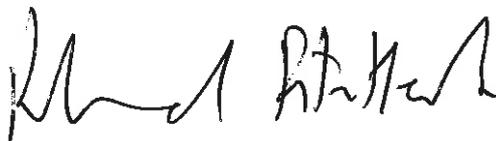
In respect of the submissions made by the objector, the Sub-Committee considered the access to the premises with regard to public safety. The Sub-Committee had regard to paragraph 10.8 of the Council's Licensing Policy that "the Licensing Authority recognises that applications for licences should not be seen as a re-run of the planning application process and should not cut across planning decisions" and considered paragraph 54 of the extract of the Planning Inspector's decision notice which stated that, "given that a safe and suitable access would be provided though both conditions are unreasonable".

The Sub-Committee were satisfied that the Planning Inspector had given the access way due consideration in making his determination that a safe and suitable access would be provided and determined that the granting of the licence for alcohol sales to residents and non-residents would not undermine the objective of public safety. The Sub-Committee accepted that the sales of alcohol at the Premier Inn would primarily be for residents of the hotel and did not deem it necessary or proportionate to restrict such sales to non-residents by imposing a condition.

The Sub-Committee noted that the applicant did not seek consent for late night refreshment but had sought consent in respect of non-standard timings which was agreed as this aspect was not opposed and did not undermine the licensing objectives.

To ensure the promotion of the licensing objectives, the Sub-Committee were of the opinion that the licence be granted subject to the Mandatory Conditions and the conditions proposed within the Operating Schedule.

Chairman



Date

4/01/18

APPEALS TO THE MAGISTRATES' COURTS

Many of the enforcement actions and decisions made by Derbyshire Dales District Council carry the right of appeal to the Magistrates' Court. This means that if you do not agree with the decision that the District Council has made you may contact the Magistrates' Court and ask them to formally review it. For example, anyone served with a formal enforcement notice has the right to appeal against that notice within 21 days of its service.

How do I make an appeal?

The right to appeal is normally set out on the reverse of the notice or in a letter that accompanies it.

If you want to appeal against the decision of the Sub-Committee you should contact:-

- Northern Derbyshire Magistrates' Court, Tapton Lane, Chesterfield, Derbyshire S41 7TW, Tel: 01246 224040

Where can I get help?

If you think you need help we would recommend that you speak to a solicitor who would be able to assist you with the Court processes.

The District Council is not able to recommend any particular firm of solicitors but would suggest you check in Yellow Pages or a local services directory.