

To: Councillor Woodward (Chair)
Councillors Grashoff and Rowland

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NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 2 - 14 FEBRUARY 2019

Further to the agenda for the above meeting, please find attached additional information for Item 4, submitted by the applicant.

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IN THE MATTER OF:

A PROPOSED PREMIER INN, 20 HOSIER STREET, READING

HEARING:

WHITBREAD GROUP PLC

APPLICANT

WRITTEN SUBMISSION ON BEHALF OF THE APPLICANT

INTRODUCTION

1. This is an application for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for a proposed 101 bedroom Premier Inn at the above location.
2. A hearing is required as representations have been received.
3. The applicant is Whitbread Group Plc which operates some 780 licensed premises nationwide. These comprise principally family friendly hotel premises with associated food and beverage operations. Premier Inn have over 20,000,000 guests per year and 70,000 bedrooms.
4. The proposed development at 20 Hosier Street, Reading represents an inward investment by Whitbread in excess of £12m.
5. Premier Inn are responsible and experienced operators of family friendly licensed premises (the majority in town or city centre locations) with systems in place for the exercise of due diligence to ensure their premises are properly and responsibly run to ensure the avoidance of the commission of regulatory offences and the possibility of public nuisance and/or crime and disorder in particular.

6. Whitbread currently operate hotels in most if not all of the major cities within the country and are well experienced in operating licensed premises in areas of the subject of Cumulative Impact Policy. They currently operate premises in Leeds Cumulative Impact Policy and Birmingham Cumulative Impact Policy to name but two without issue. In addition they have a large number of premises within central London many in so called 'stress areas'.
7. The nearest residents likely to be affected by the proposed development will be those residents who are staying in the proposed Premier Inn itself. Whitbread offer a "good night guarantee" to such customers under which a customer is refunded the cost of their accommodation if their night is disturbed. The amenity of their customers and particularly hotel residents is a paramount concern and priority.
8. As a development site, these premises have yet to be developed but upon completion and before opening, a Designated Premises Supervisor will be appointed, a Senior Manager of the premises with appropriate qualifications and all staff will be trained as part of Whitbread's national development programme.
9. What is proposed here is a hotel facility with associated food and beverage offering. There will be a secure entrance lobby to the hotel area at ground floor level with stairs and lift providing access to the upper floors of the hotel. There will be a proposed restaurant and bar facility at ground floor as detailed on the plans lodged with the application. Access to the hotel is through a reception area that is manned and supervised 24 hours a day. External access by residents after 11 p.m. to the hotel will be through secure electronic key access or by request to the reception area. It is proposed that the restaurant and bar facility will close to members of the public at 00:30 hours.
10. The food and beverage facility will provide some 150 covers within the dining area.
11. The operation will principally be a hotel with associated food and beverage offer. Generally across the Premier Inn estate the split is 60% food with overall 40% drinks including non-alcoholic drinks.

12. The application as lodged requests licensable activities taking place from Monday – Sunday 10.00 – 00.00 with the premises closing the general public 30 minutes thereafter. However, the premises would remain open 24 hours a day to Hotel residents. This is the norm for an application such as this. It should be noted that there is no request for regulated entertainment other than the provision of films (being principally educational videos in conjunction with occasional conferences or special events). The provision of late night refreshment is requested until 00:00 hours which supports the importance of food provision to the operation, and the ability to provide teas and coffees.

REPRESENTATIONS

13. The hearing is required because there have been representations from the Licensing Authority and Police.

The Law

The Licensing Objectives.

14. Central to the statutory regime are the four licensing objectives which are the only relevant areas for consideration in licensing applications. They are as follows:

- Prevention of crime and disorder.
- Public safety
- Prevention of public nuisance.
- Protection of children from harm.

The Guidance

15. Under Section 182, the Secretary of State is required to issue Guidance to Licensing Authorities on the discharge of their functions under the Act. Section 4(3) requires Licensing Authorities to have regard to the Guidance.

16. So whilst the requirement to have regard to the Guidance is binding on Licensing Authorities, paragraph 1.9 of the Guidance recognises that :

“This Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as Licensing Authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an Appeal or Judicial Review and the reasons given will then be a key consideration for the Courts when considering the lawfulness and merits of any decision taken”.

17. Although the Guidance cannot be said to have statutory force, those parts of the Guidance which express the key aims and objectives of the legislation must have significant regard paid to them because any decision which undermines the legislative scheme may be found to be unlawful (*Padfield –v- Ministry of Agriculture, Fisheries and Food (1968) AC997: R (on the application of British Pub & Beer Association) –v- Canterbury City Council (2005) EWHC 1318 Admin*).

The Application Process

18. Section 17 sets out the procedure for making a Premises Licence Application and Section 18 sets out the provisions for determination of that application where representations have been made by the Responsible Authorities or other persons.

19. Section 18 provides that where an application for a new Licence is properly made, following receipt of relevant representations, the Licensing Authority must hold a hearing following which it may, if it thinks it is necessary, take one or more of the steps set out in Section 18(4) as follows :

(a) to grant the Licence subject to :-

- (i) the conditions mentioned in sub-section 2(a) modified to the extent the Authority considers appropriate for the promotion of the licensing objections; and
- (ii) any condition must under Section 19, 20 or 21 be included on the Licence.

(b) to exclude from the scope of the Licence any of the licensing activities to which the application relates.

(c) To refuse to specify a person on the Licence as Premises Supervisor.

(d) To reject the application.

Conditions

20. The general principles which govern the imposition of conditions upon Premises Licences may be summarised under 4 heads :-

(1) A condition may only be attached to a Licence if it is appropriate for the promotion of one or more of the licensing objectives.

(2) A condition must not duplicate other statutory provisions.

(3) The conditions must be proportionate.

(4) In order to give rise to criminal liability a condition must be framed so as to give precision and clarity for definition in the prescribed Act.

21. Relevant extracts from the Guidance are as follows :-

(1) Failure to comply with any condition attached to a Licence or Certificate is a criminal offence, which on conviction, is punishable by an unlimited fine or up to 6 months imprisonment. The Courts have made it clear that it is particularly important that the conditions which are imprecise or difficult for a licence holder to observe should be avoided (paragraph 10(2)).

(2) The Licensing Authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied that as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate to impose conditions that promote one or more of the four licensing objectives (10.8).

(3) It is possible that in some cases no additional conditions are appropriate to promote the licensing objectives (10.9).

- (4) The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. **Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided.** (10.10).
- (5) **All licensing determinations should be considered on a case by case basis** (9.42)

Reading Borough Council Licensing Policy

22. It is acknowledged and accepted that the Reading area Licensing Policy has a Cumulative Impact Assessment in place and that the premises proposed fall within that Policy. It is submitted that the granting of this application will not adversely impact upon the Cumulative Impact Assessment.

The policy states and acknowledges as follows:

"12.14 Applications will be considered on a case by case basis. Any application which is **unlikely** to have a negative effect on the promotion of the licensing objectives and may be granted subject to being consistent with the provisions and aims set out in this assessment and the licensing policy as a whole."

The Policy further states at paragraph 12.24 as follows:

"However the Policy stated in 12.13 and 12.23 is not absolute and applicants will have the opportunity to address the matter affecting cumulative impact within their application. Applicants will have to demonstrate that their application and proposed operation are not inconsistent with the Authorities Policy, this assessment and the Authorities ability to promote the licensing objectives"

23. It is submitted that the detail given in the application together with the further detail included within this written submission (and proposed additional conditions) below, addresses concerns raised in relation to cumulative impact policy and shows that these premises are primarily a hotel with associated food and beverage

operation and would not adversely affect the cumulative impact policy or undermine the licensing objectives.

24. Further conditions have been offered in light of comments received from the Licensing Authority and Police. Discussions took place with the Police prior to lodging the application and representations were received from the Licensing Authority and the Police at the end of the consultation period. Following receipt of those a meeting took place between the applicant, the Police and the Licensing Authority.

25. Paragraph 12.20 of the Licensing Policy indicates the position in relation to levels of issues after midnight. It is to be noted that the application for alcohol sales to non residents limit the sale of alcohol and late night refreshment to midnight seven days a week.

26. Further it is to be noted that there is no request for regulated entertainment in relation to this application.

27. The Applicant in the application includes the following:

(a) Details of the development site as a proposed Premier Inn with associated food and beverage giving details of room numbers.

(b) Details of the proposed hours of operation.

(c) Acknowledges that the premises are within the Cumulative Impact Area but based on the type of operation will not have an adverse impact upon the area.

(d) Offers conditions in relation to

(i) CCTV provision

(ii) Staff training

(iii) Underage sales prevention

(iv) Prevention of public nuisance around notices at site

(v) Restrictions in relation to access of children to the premises.

Additional Conditions

Following receipt of the representations from the Police and Licensing Authority further additional conditions are offered as follows:

CCTV

1. (a) The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV. There shall be at least one camera positioned at each entry and exit point to monitor any external areas to the premises. This includes any areas designated for tables and chairs and/or a designated smoking area. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

(b) Signs shall be placed in prominent positions on the premises notifying customers that CCTV is in operation.

DOOR SUPERVISORS

2. (a) When employed, a register of Door Supervisors shall be kept. The register must include the following details:

- Full SIA registration number.
- Date and time that the Door Supervisor commenced duty, countersigned by the Designated Premises Supervisor or Duty Manager.
- Date and time that the Door Supervisor finished work, countersigned by the Designated Premises Supervisor or Duty Manager.
- Any occurrence or incident of interest involving crime & disorder or public safety must be recorded giving names of the Door Supervisor involved.

The Door Supervisor register shall be kept at the premises and be available for inspection by an authorised officer of Thames Valley Police, or an authorised officer from Reading Borough Council and shall be retained for a period of six months.

(b) When door supervisors are employed at the premises they shall be easily identifiable and display their badges in high visibility arm bands. One door supervisor shall also be equipped with a body worn camera to record any incident that undermines the promotion of any of the four licensing objectives. A door register shall also be kept and maintained at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

DISPERSAL POLICY

3. (a) A closure and dispersal policy for controlling the closing of the premises and the departure of customers from the premises at the conclusion of licensed activities shall be put in place and shall be actively operated. At the end of licensable activities, staff shall be available to disperse customers away from the premises in line with the dispersal policy.

(b) Clearly legible and suitable notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and area quietly. After 0000hrs staff shall be available to ensure that customers disperse quietly.

INCIDENT REGISTER

4. All incidents which impact on any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose. The names of the person recording the incident and those members of staff who deal with any incident shall also be recorded. Where known, any offenders name shall also be recorded;
- (a) this record shall be available for inspection by a Police Officer or an authorised officer of Reading Borough Council upon request and shall be retained for one year. The record shall be signed off by the DPS or nominated representative at the end of each trading session;
- (b) a weekly review of the incident register shall also be carried out by the DPS.

STAFF TRAINING

5. Staff employed to sell alcohol shall undergo training upon induction. This shall include, but not be limited to:
- The premises age verification policy
 - The law relating to underage sales
 - Dealing with refusal of sales
 - Proxy purchasing
 - Recognising valid identity documents not in the English language
 - Identifying attempts by intoxicated persons to purchase alcohol
 - Identifying signs of intoxication
 - Conflict management
 - How to identify and safeguard vulnerable persons who attend and leave the premises
 - Identifying signs of drug usage and prevention
 - The four licensing objectives

Such training sessions are to be documented and refreshed every six months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of one year and be made available to an authorised officer of Thames Valley Police and Reading Borough Council upon request.

CSE

6. The Premises Licence Holder and/or Designated Premises Supervisor shall ensure that all staff complete training in Child Sexual Exploitation that is of a standard agreed with Thames Valley Police and Reading Borough Council training package within 28 days of employment and a signed record of their training shall be maintained. Refresher training in relation to CSE shall formally take place once every six months and signed records of this training and signed records of this training shall be maintained. These records shall be kept for a minimum of two years of the date of the training and shall be made available to any authorised officer of Thames Valley Police or an authorised officer of Reading Borough Council.

AGE VERIFICATION

7. The premises shall at all times operate an age verification policy of at least Challenge 21 to prevent any customers who appear to staff members to be under the age of 21 years from purchasing alcohol without having first provided identification. Only a valid driver's licence showing a photograph of the person, a valid passport, national identity card or proof of age card showing the "PASS" hologram are to be accepted as identification. Notices advertising the Challenge 21 and proof of age policies shall be displayed in prominent positions on the premises.
8. The Premises Licence holder shall display in a prominent position a copy of their policy on checking proof of age.

REFUSAL BOOK

9. All staff involved in the sale of alcohol shall be trained to record refusals of sales of alcohol in a refusals log (whether written or electronic). The log shall contain:

- Details of the time and date the refusal was made;
- The identity of the staff member refusing the sale;
- Any detail or description of the person refused and the reason why.

This book /register will be available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

PUBWATCH

10. The premises licence holder or nominated representative shall actively participate in the local Pubwatch scheme should one be operating in the area.

TOWN SAFE RADIO

11. The premises licence holder or nominated representative shall participate in the Local Town Radio Scheme when the premises are opened for licensable activities Monday to Sunday inclusive.

REMOVAL OF GLASSWARE AND OPEN CONTAINERS

12. Signs shall be displayed at all exits informing customers that the area outside of the premises is an Alcohol Exclusion Zone.

13. No alcohol shall be removed from the premises or consumed outside. The only exception to this would be for service of alcohol to tables in any external area under the control of the premises licence holder.

14. No person under the age of 16 years will be permitted on the premises after 21:00 hours unless dining in the restaurant or a resident of the hotel. Any person under the age of 16 years of age who is on the premises after 21:00 hours shall be accompanied at all times.

15. No externally promoted events that involve the sale of alcohol or the provision of regulated entertainment shall take place at the premises at any time

Challenge 21/Child Sex Exploitation Prevention

28. The applicant operates Challenge 21. Induction training for all new members of staff is provided on a range of legal responsibilities including underage sale prevention and child sexual exploitation prevention.

29. There is six monthly refresher training and the use of smart tools through which challenges to persons under 21 are recorded through a refusals register. In addition

there is regular and estate wide use of independent covert test purchases to assess the effectiveness of the Challenge 21 system.

30. CSE training takes place across the estate with refresher training every six months. The detail of the training has previously been provided to Thames Valley Police.

31. In summary:

- a. The applicant is a well-known and highly respected operator of licensed premises nationally.
- b. The amenity of their own residents is of paramount importance and the management of the premises will be designed to ensure minimum impact upon those residents and indeed any other residents within the areas.
- c. In addition, the premises will bring inward investment into the area of the significance.
- d. In addition there will be careers created with new full and part time jobs, with the opportunity to progress through the Whitbread Academy.
- e. Additional conditions are proposed in this document to address concerns that have been raised in the representations.
- f. The additional conditions proposed in this document as well as the operating schedule address any concerns that may be raised and as such the proposal will not adversely impact upon the cumulative impact policy.
- g. The style of business to be operated are family friendly and will be a positive addition to the Reading area. As such it will improve the offer to customers within the Reading area and will not impact upon the cumulative impact policy adversely.

32. It is submitted that the proposal is a substantial hotel operation with food and beverage offer will not adversely impact on the cumulative impact policy is requested to be granted as requested with the additional conditions proposed by the applicant.

John Gaunt & Partners
February 2019