

TORRIDGE DISTRICT COUNCIL

LICENSING HEARING

Town Hall, Bideford

7 November, 2012

PRESENT:

Licensing Sub-Committee: Councillor A Boyd (Chair)  
Councillor B Edwards  
Councillor T Johns

Mr T Nicholls – Licensing Manager (TDC)  
Mr K Miles – Solicitor (TDC)

Applicants Representatives: Mr D Crank, DWF LLP  
Mr K Westley – Area Manager, Martin McColl  
Limited  
Pauline Evemy – Store Manager, Martin McColl  
Limited

The Chair opened the meeting and introduced the Licensing Sub-Committee Members and TDC staff present. He advised the hearing had been convened to consider an application from Martin McColl Limited for a premises licence for 6 – 7 Victoria Square, Holsworthy.

The Councillors present declared they had no personal or prejudicial interests in the application.

The Chair advised that no objectors or their representatives were present at the hearing. The applicant's representatives were then invited to identify themselves. The Chair explained the procedure for the hearing and confirmed that no objections had been received from the Responsible Authorities. The Chair then requested the Licensing Manager to present his report.

Prior to presenting his report, the Licensing Manager confirmed he had written the report using the Section 182 Guidance issued by the Home Office in April, and not the revised Guidance issued by the Home Office in October.

The Licensing Manager presented his report and confirmed that the application for a premises licence had been made under s.17 of the Licensing Act 2003. He explained that because the Licensing Authority had received a relevant representation, the application must be determined by a sub-committee of the Council's Licensing Committee.

The Licensing Manager circulated to the meeting:

- Photographs showing the location of the premises, and
- Plans detailing the layout of the premises (application for ground floor of the premises only)

The Licensing Manager outlined the locality of the premises, and advised that the premises are situated within the commercial part of Holsworthy, but there are a number of residential dwellings in close proximity.

Further details of the application, the licensable activities applied for and the proposed opening hours were given to the Committee.

The Licensing Manager advised that although the objectors had not attended the Hearing, the Committee had a legal duty to consider their written representation. He outlined the concerns expressed in the representation and advised the sub-Committee that, if minded, they had the power to attach additional conditions to a licence but that these must be appropriate, reasonable and proportionate.

The Licensing Manager referred to Section P of the application and advised that he had re-worded this section in accordance with the applicant's intentions, and had expressed them in such a way as to ensure they were clear and enforceable. He stated that Mr Crank had confirmed the applicant was content with the interpreted measures.

The Licensing Manager explained the policy issues relevant to the application.

The Chair enquired as to whether there were any questions for the Licensing Manager. As there were no questions, Mr Crank, DWF LLP (the applicant's legal representative) was invited to make his submission.

Mr Crank gave a detailed verbal presentation which included outlining the business case for the application. He confirmed that if the application was to be granted, the Designated Premises Supervisor would, in due course, be Pauline Evemy and not Mr Stephen Mahoney.

Mr Crank confirmed that the applicants were happy to agree the Conditions stated in Appendix 4 of the Agenda (Annex 2 – Conditions consistent with the Operating Schedule).

Mr Crank referred to the concerns raised in the objector's representation letter and gave details of the ways in which these were being addressed.

The sub-Committee asked questions on concerns they had relating to the following:

- Length of time the premises had been operating
- The need for a licence
- The Licensing Objective – "Protection of Children from Harm". Mr Crank gave details of the "Challenge 25" scheme.
- The opening hours of the premises – Mr Crank clarified to the Committee the reasons as to why the extended opening hours proposed were from 6 am.

The Chair then invited the applicant's representatives to address the Committee.

Pauline Every addressed the Committee confirming that she held a Personal Licence and that there were people available who would assist and cover the opening hours. She also confirmed that the staff at the premises had been employed there for a long time.

Mr Keith Westley addressed the Committee stating that it is the intention of the Company to support the community and it would not be in their interest to have problems within the area.

The Chair confirmed that although the objectors had not attended the hearing, the Committee had a duty to consider their representation. He invited the Applicant's representatives to address the meeting on any concerns they may have with regard to the representation.

Mr Crank reiterated what he had said previously and asked the Committee to consider the following points when determining the application:

- Limited evidence to be relied on
- The Responsible Authority had not raised any objections

The Chair invited the applicant's legal representative to summarise his case.

Mr Crank addressed the Committee and re-iterated that the company would endeavour to work with the community if granted a licence. He stated that there was limited evidence in the objection to suggest that the grant of a licence would undermine the licensing objectives. Mr Crank confirmed that the company would, if requested to do so, display notices asking customers to respect neighbouring properties when leaving the premises.

The Licensing Manager then read to the Committee a proposed condition passed to him by the Solicitor. Mr Crank confirmed he had no objection to entering into discussions regarding the wording of the Notice required by the suggested condition.

The Panel then retired to consider its decision.

On return, the Chair stated that the sub-Committee had given careful consideration to the evidence presented at the hearing and that with regard to the licensing objectives, the sub-Committee was of the opinion that there would be an increased and adverse risk to the local area in terms of anti-social behaviour through alcohol use and littering if a licence were granted on the terms applied for.

The Chair stated that sub-Committee had regard to paragraphs 1.4 and 1.15 of the Guidance issued by the Home Officer under S.182 of the Act, and to paragraphs 8.2 and 14.1 of the Council's Statement of Licensing Policy.

The sub-Committee decided to grant the application subject to the conditions agreed in Appendix 4 of the Licensing Manager's Report, together with the following additional conditions:

- Prior to any licensable activity taking place, the applicant will agree with the Licensing Authority a scheme of signage to be displayed at all times in the front windows of the premises that will promote the licensing objectives
- In the vicinity of the premises, litter directly related to sales will be collected and properly disposed of at the end of each trading day
- The said supply of alcohol being restricted to between 8 am and 10 pm Monday to Sunday

The Chair informed all parties to the hearing that they had the right to appeal the sub-Committee's decision and that an appeal must be brought within 21 days of notification.

The hearing concluded at 15.50 pm.