

IN THE MATTER OF:

**A PROPOSED PREMIER INN AT FORMER MAGISTRATES COURT, 181 TALGARTH ROAD,
LONDON**

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 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 800 licensed premises in England, Wales and Scotland. These comprise principally hotel premises with associated food and beverage operations. Premier Inn welcome over 20 million guests per year and have over 80,000 rooms. Whitbread Group plc currently operates Premier Inns within the Hammersmith and Fulham Licensing area and across London.
4. The proposed development at 181 Talgarth Road, London represents a significant inward investment by Whitbread and will lead to the creation of some 100 plus career positions.
5. Whitbread are responsible and experienced operators of licensed premises (the majority in town or city centre locations) with robust systems in place for the exercise of due diligence to ensure their premises are properly and responsibly run in accordance with the law and to ensure the avoidance of the commission

of regulatory offences and the possibility of public nuisance and/or crime and disorder in particular.

6. The nearest residents likely to be affected by the proposed development will be those residents who are staying in the proposed accommodation itself. Premier Inn 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.
7. 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.
8. What is proposed here is a Premier Inn with 400 bedrooms incorporating a food and beverage area, as identified on deposited plans. The reception area will be at ground floor level and accessible from Talgarth Road and will be supervised 24 hours a day 7 days a week.
9. The application requests licensable activities limited to the sale of alcohol and late night refreshment for consumption on and off the premises for residents and non residents and the provision of films which is aimed at on-demand films for residents in their rooms.

Representations

10. The hearing is required because there have been representations from interested parties that have not been resolved.

The Licensing Objectives.

11. 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

12. 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.
13. Paragraph 1.17 states each application must be considered on its own merits. This is essential to avoid the imposition of disproportionate overly burdensome conditions on premises where there is no need for such condition. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.
14. Guidance paragraph 2.21 stipulates "beyond the immediate surrounding of the premises these are matters for the personal responsibility of individuals under law and an individual engaged in anti-social behaviour is accountable for their own right. However, it would be perfectly reasonable for the Licensing Authority to impose a condition following relevant representations to require Licence Holder or club to place signs on exists around the building encouraging patrons to be quiet until they leave the area and to respect the right of people living nearby to a peaceful night."
15. 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)).
16. 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).

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

18. 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. Licensing Authorities and Responsible Authorities should be alive to the indirect costs that can arise because of conditions.... Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objection** (our emphasis) (10.10)

19. The determination of the Licensing Committee must be evidence based on what is before them (9.42 and Daniel Thwaites Plc v Wirral Borough MC (2008) EWHC 838).

The Application Process

20. 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.

21. 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

22. 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 objections.
- (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.

23. At paragraph 9.12 of the Guidance, states as follows;

“Each Responsible Authority will be an expert in their respective field, and in some cases it is likely that a particular Responsible Authority will be the Licensing Authority's main source of advice in relation to a particular licensing objective....”

Residential Representations Received

24. As mentioned above, representations have been received from interested parties being residents.

25. Insofar as there may be a suggestion that the use of these premises may lead to a potential detrimental effect on the residential amenity of those in the vicinity with a perceived risk that this will result in a rise in public nuisance as a result of the food and beverage facility at this location, no evidence is available to support any such assertion.

26. As further mentioned, the hotel reception area is supervised 24 hours a day providing a further degree of supervision of the overall premises throughout the day and night.

27. Although the residents who have opposed the application have anxieties, it is the view of the Applicant that these anxieties are substantially unfounded (borne out by their experience of the many similar developments which they operate) but in any event are mitigated by conditions offered within the application.

28. Some additional documents are attached to this Written Submission as follows:-

(a) A further copy of the proposed ground floor layout plan. It is to be noted that save for the ability of residents to consume alcohol in their rooms, the licensed area is restricted to part of the ground floor area only.

(b) Copy indicative menus for similar developments to the proposed here.

(c) Copy photographs of similar developments showing similar furnishings and layout for the proposed licensed area.

(d) Having received the representations and further consideration, a document showing additional proposed conditions in relation to this application.

29. Please note that the only external area is a relatively modest area facing away from the residents and towards Talgarth Road but within the overall development.

30. In the representations there is reference to other parts of the development. Those aspects do not form part of this application and this application relates only to the proposed Premier Inn as shown on the plans deposited with the application and the licensed area is proposed to be limited to that shown on the plan as attached for the ground floor area.

Hammersmith & Fulham Borough Council Licensing Policy

31. Hammersmith & Fulham Borough Council has a detailed Licensing Policy and consideration has been given to this and the detail in preparing the application.
32. These premises do not fall within in a "cumulative impact policy area" and it is submitted that the application submitted is in line with the Licensing Policy in its terms and parameters.
33. In summary:
- a. The applicant is a well-known and highly respected operator of Hotel style premises. They operate family friendly hotels.
 - 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 area.
 - c. No evidence is or can be put forward specific to this proposed development that problems and disturbance will occur. The Applicant is acutely aware of their responsibility and always seek to have good relationships with their neighbours and neighbouring premises.
 - d. The site is subject to a detailed planning permission The Applicant will be cognisant of planning conditions in the operation of the hotel generally.
 - e. No evidence is or can be advanced or is otherwise available that Whitbread are not a responsible operator or that they do not have in place effective and credible due diligence policies to ensure the proper management of their hotel premises in particular the other premises operated by Whitbread Plc within the London area.
 - f. In addition, there will be careers created with new full and part time careers, with the opportunity to progress through the Whitbread Academy.
 - g. The style of business to be operated are family friendly and will be a positive addition to the area is such that it will improve the offer to customers within the area and will not impact adversely.

John Grant & Steve
21/4/2021