

LICENSING SUB-COMMITTEE 4

Tuesday 29th April, 2008 at 10.00 am
in the Committee Room 2, The Council House, Dudley

PRESENT:-

Councillor Mrs Ameson (Chairman)
Councillors Mrs Aston and Ryder

Officers

Assistant Director Legal and Democratic Services (Legal Advisor), Mrs J Elliott (Licensing Officer) and Mrs K Farrington – Directorate of Law and Property

9 APOLOGY FOR ABSENCE

An apology for absence from the meeting was submitted on behalf of Councillor Mrs Coulter.

10 APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor Ryder had been appointed as a substitute member for Councillor Mrs Coulter for this meeting of the Sub-Committee only.

11 DECLARATIONS OF INTEREST

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

12 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 15th January, 2008, be approved as a correct record and signed.

13 APPLICATION FOR A PREMISES LICENCE – MCDONALDS, 69 KENT STREET, UPPER GORNAL, DUDLEY

A report of the Director of Law and Property was submitted on an application received from Ashnet 2000 Limited on behalf of McDonalds, 69 Kent Street, Upper Gornal, Dudley, for the grant of a premises license.

Ms Diane Ash, Franchisee of McDonalds Restaurant was in attendance at the meeting, together with the Solicitor acting for the Company, Mr Tom Challinor.

Also in attendance were Ms Dolores Nellany, Food and Occupational Safety Manager and Ms Sarah Welsh, Environmental Health Officer (observer), Directorate of the Urban Environment. It was noted that there were no objectors to the application in attendance at the meeting due to ill health. It was also noted that one objection had been withdrawn.

The Legal Advisor outlined the procedure to be followed.

At this junction, the Legal Advisor sought clarification as to the outcome of the discussion that had taken place prior to the meeting between the franchisee and Ms Nellany and queried the current position regarding the application.

It was confirmed that an amendment to the application had been made in relation to the extension of licensing hours originally requested. The applicant was currently requesting refreshments be sold until midnight on Sundays through to Wednesdays and until 1.00am on Thursdays through to Saturdays.

Mrs Nellany expanded on the representations outlined in Appendix 2 to the report submitted and in doing so, stated that the proposed extended hours would impact on the licensing objective of preventing public nuisance and that no extra controls had been proposed in order to prevent the potential for public nuisance issues from the restaurant's car park. She referred, in particular, to the history of complaints received from local residents. She stated that she had received five complaints in relation to noise nuisance (three regarding deliveries late at night, one from refrigeration noise and one from customers using the restaurant's car park late at night playing loud music), four in relation to cooking odours escaping from the restaurant's kitchen, one regarding litter and the final complaint relating to the McDonalds illuminated sign, eleven complaints in total during the past five years. She did, however, inform the Sub-Committee that the issue relating to cooking odours had been dealt with in August 2006 and confirmed that no further complaints had been received since that date.

Ms Nellany expressed concern related to noise nuisance issues that would occur from customers congregating on the car park consuming the restaurants refreshments whilst playing loud music or revving car engines, which would result in disturbing residents in the vicinity. She also acknowledged the offer from Ms Ash, made prior to the meeting, regarding the closure of part of the car park after 11.00pm however, she stated that the amended proposed hours were still too late and suggested that the Sub-Committee consider allowing the restaurant to open until 1.00am on Thursdays through to Saturdays. She confirmed that she had no objection to the amended proposed opening hours on Sundays through to Wednesdays.

In response to questioning from Mr Challinor, Ms Nellany accepted that the reputation of McDonalds had improved since Ms Ash had taken over the franchise and acknowledged that the complaint regarding noise nuisance from customers using the car park was received in February 2003, which had been over five years ago.

In response to further questioning from Mr Challinor, Mrs Nellany mentioned that the offer to close part of the car park after 11.00pm would, in her opinion, slightly improve the issue regarding noise emanating from the car park. She also accepted that the noise from vehicle deliveries and extractor fans would not improve.

Councillor Ryder expressed concern regarding the closure of part of the restaurant's car park after 11.00pm and considered that customers would be forced to park their vehicles in Kent Street or Pale Street, which would not be an acceptable alternative. In responding, Ms Nellany mentioned that only a proportion of the car park would be closed off and considered that there would still be an adequate number of car parking spaces available to customers.

Following questioning of Mrs Nellany, the Legal Advisor sought clarification on the position regarding Mrs Nellany's objections. She reported that she had no objection to the new proposed extended opening hours of 23.00 to midnight on Sundays through to Wednesdays, but stated that 23.00 to 02.00 on Thursdays through to Saturdays was still too late and suggested that the Sub-Committee consider reducing the proposed licensing hours on a weekend by one hour.

Ms Ash then stated her case and in doing so, informed the Sub-Committee that she had taken over the premises in September 2006, after Environmental Health had received complaints from local residents. She stated that she had made significant improvements to the premises, which would help prevent potential problems, in particular, installing a sixteen camera CCTV unit with thirty-one day digital recording, as well as having a close working relationship with local Police.

Ms Ash also stated that since she had taken over the franchise, complaints received from dissatisfied customers had reduced considerably, which, in her opinion, was mainly due to her commitment to the restaurant and also to being a good neighbour. She informed the Sub-Committee that the premises proposed to operate the drive-through with the restaurant inside closed after 11.00pm and stated that the longer opening hours would allow customers who worked shifts to be served.

She informed the Sub-Committee that she had employed a dedicated litter-picker, working three days a week, to carry out a eight mile route of the car park, including the surrounding areas so as to reduce the amount of litter accumulating in the vicinity. As well as employing a litter-picker, Ms Ash announced that her staff frequently patrolled the restaurants car park disposing of any noticeable litter, however, she emphasised that the clean up of the area would only take place in the daytime, as the safety of her staff was paramount.

Ms Ash acknowledged concerns raised in respect of noise emanating from customers using the car park, refrigeration noise and regarding deliveries. She stated that, in respect of deliveries, she had requested that the firm consider altering delivery times to a daytime delivery in order to reduce noise nuisance in the evenings. She informed the Sub-Committee that she proposed to erect prominent and legible signs, urging customers to be considerate to the residents in the area and to dispose of litter in the bins provided.

Ms Ash then concluded by stating that if the Sub-Committee agreed to add a condition to shut off part of the car park after 11.00pm, she would impose that condition, but feared that it would encourage customers to use nearby streets.

In response to a question from Mrs Nellany regarding complaints received at the main head office, Ms Ash stated that the complaints were in relation to customers complaining about cold food or missing items in orders. She reported that there were two main categories of complaints, the first being cleanliness of the restaurant and the second, quality of service. She confirmed that she had received no complaints regarding the cleanliness of the restaurant or based on noise nuisance.

In responding to a question from the Sub-Committee, Ms Ash stated that she had signed a twenty-year lease and she was committed to being a good neighbour and operating in accordance with the licensing objectives.

Responding to further questioning from the Sub-Committee, Ms Ash reported that CCTV cameras were situated behind the tills, in the lobby by toilets, on the main entrance door, all around the building and one positioned on the drive through window, with the main screens located in the managers office. She confirmed that the CCTV was thirty-one-day digital recording, which was accessible at all times.

Ms Ash clarified that the premises would only operate the drive-through facility after 11.00pm. Councillor Ryder suggested that legible signage be erected on the car park informing customers that the drive-through would only be in operation after 11.00pm.

The Legal Advisor acknowledged that CCTV and signage would help deter potential noise problems but stated that he did not feel that sufficient measures had been put in place in order to control potential noise issues occurring whilst the drive-through was in operation during the early hours of the morning. In responding, Ms Ash stated that, although staff were not allowed to patrol the outside of the restaurant to deal with problem customers who congregated in the car park, consuming food and discarding litter, CCTV recordings would be accessible on request to Police and Council Officers and that problem customers would be identified and dealt with accordingly.

In conclusion, Mr Challinor stated that since Ms Ash had taken over the franchise of McDonalds, no complaints had been received and that she was committed to making the premises a success whilst also being a good neighbour. He also stated that Ms Ash had conceded to erect signage and close off part of the restaurants car park in order to control potential noise nuisance if the Sub-Committee considered it necessary.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

Following a lengthy discussion, the Sub-Committee, having made their decision all the remaining parties were invited to return and the Chairman then outlined the decision.

RESOLVED

That the application received from Ashnet 2000 Limited on behalf of McDonalds, 69 Kent Street, Upper Gornal, Dudley, for the grant of a premises license, be approved, in the following terms.

Late Night Refreshments

Monday – Thursday	23.00 – 24.00
Friday – Saturday	23.00 – 01.00
Sunday	23.00 – 24.00

Conditions

(1) Signage to state:-

Please respect local residents and exit car park quietly.
Drive through only after 11.00pm.

- (2) Car parking facing Pale Street to be closed off after 11.00pm daily.
- (3) Restaurant lighting to be turned off after 11.00pm daily.

Reason for Decision

The extension of hours and conditions should be sufficient to limit noise nuisance and anti-social behaviour to residents in this highly residential area while allowing the applicant an opportunity to development her business. This is also consistent with other establishments locally.

The applicant was informed of her right to appeal the decision of the Sub-Committee.

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APPLICATION FOR A PREMISES LICENCE – GOALS SOCCER CENTRE, CAKEMORE ROAD, HALESOWEN

A report of the Director of Law and Property was submitted on an application received from Davenport Lyons on behalf of Goals Soccer Centre, Cakemore Road, Halesowen, for the grant of a premises license.

Mr Paul Taylor, Designated Premises Supervisor was in attendance at the meeting, together with his Solicitor, Mr Peter Grazebrook.

It was noted that there were no objectors present at the meeting, but that letters of objection had been received, which had been circulated to the Sub-Committee prior to the hearing.

Following introductions by the Chairman, the Legal Advisor outlined the procedure to be followed.

Mrs J Elliott, Licensing Officer, Directorate of Law and Property, presented the report on behalf of the Council.

Mr Grazebrook, for the applicant, informed the Sub-Committee that Goals Soccer Centre had been successfully operating for 25 years and currently had twenty-five premises located around the Country. He stated that the main purpose of the application was to allow customers to socialise and enjoy refreshments from the bar area for a longer period of time after a match had finished. He further stated that the intended extension to the licensing hours would only be used if the centre had been hired for private and pre-booked functions only; in which case, there would be no access for the general public.

Mr Grazebrook informed the Sub-Committee that Mr Taylor would ensure that customers left the premises quietly at the end of the evening to prevent disturbing local residents. He mentioned that there was ample car parking facilities available to customers and stated that if taxis were required, Mr Taylor would contact a taxi firm on the customers behalf in order to avoid people lingering around the premises.

Mr Grazebrook concluded by informing the Sub-Committee that in order to help prevent crime and disorder, a CCTV system was in place to deter anti-social behaviour.

The Sub-Committee then outlined the decision.

RESOLVED

That the application received from Davenport Lyons on behalf of Goals Soccer Centre, Cakemore Road, Halesowen, for the grant of a premises license, be approved in accordance with the operating schedule for private functions only:-

Sale of Alcohol

Monday – Thursday	10.00 – 23.00
Friday – Saturday	10.00 – 24.00
Sunday	10.00 – 23.00

Regulated Entertainment

Monday – Thursday	10.00 – 23.00
Friday – Saturday	10.00 – 24.00
Sunday	10.00 – 23.00

Late Night Refreshments

Monday – Thursday	10.00 – 23.00
Friday – Saturday	10.00 – 24.00
Sunday	10.00 – 23.00

Reasons for Decision

Operating schedule and submissions made will ensure that any nuisance to local residents is kept to a minimum or eliminated. The objectors have not attended the Sub-Committee meeting and we have therefore given the objections less weight than we would otherwise have done.

A report of the Director of Law and Property was submitted on a revision of the consent/prohibited streets in Dudley Borough to include Tansey Green Road as a prohibited street in respect of Street Trading.

RESOLVED

That the application made for the revision of the consent/prohibited streets in Dudley to include Tansey Green Road as a prohibited street in respect of Street Trading, be approved.

16 EXCLUSION OF THE PUBLIC

RESOLVED

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Local Government Act, 1972, as indicated below; and in all the circumstances, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption from disclosure.

<u>Description of Item</u>	<u>Relevant Paragraph of Part 1 of Schedule 12A</u>
Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor – The Picture House, 1 st Floor, 27–29 Hagley Road, Stourbridge	1

17 APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR – THE PICTURE HOUSE, 1ST FLOOR, 27–29 HAGLEY ROAD, STOURBRIDGE

It was noted that the application received from Young & Pearce, Solicitors, on behalf of Enteramma Limited (The Picture House), in respect of Mr DJJ, to vary a premises licence to specify an individual as a designated premises Supervisor had been withdrawn.

The meeting ended at 12.25pm

CHAIRMAN

LSBC4/22