

LICENSING SUB-COMMITTEE 1

Wednesday 28th May, 2014 at 10.00 am
in Committee Room 4, The Council House, Dudley

PRESENT:-

Councillor Bills (Chair)
Councillors Blood and Mrs Turner

Officers: -

Miss N Bangar (Legal Advisor), Mrs L Rouse (Licensing Clerk) and
Mrs K Taylor – All Directorate of Corporate Resources.

52 DECLARATIONS OF INTEREST

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

53 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 11th
March, 2014, be approved as a correct record and signed.

54 APPLICATION TO VARY A PREMISES LICENCE – MCDONALD'S RESTURANT LIMITED, DUDLEY ROAD, KINGSWINFORD

A report of the Director of Corporate Resources was submitted on an
application for variation of the premises licence in respect of the
premises known as McDonald's Restaurant Limited, Dudley Road,
Kingswinford.

Ms N Gillchrist (Barrister); Mr Morris (Security Manager); Mrs Hoter
(Assistant Manager), and Mr Slakyvek (Area Manager), all
representatives for McDonald's Restaurant Limited, were in
attendance at the meeting.

Also in attendance and objecting to the application were Ms D
Nellany (Food and Occupational Safety Manager), and Mr T Glews
(Environmental Protection Manager), both from the Directorate of the
Urban Environment, together with three local residents and a
representative from the Express and Star.

Following introductions, and the agreement by all parties that Mr Rock, local resident would comment on behalf of the local residents present as he had submitted written representations, the Licensing Clerk presented the report on behalf of the Council.

Ms Nellany presented the representations of Environmental Health and in doing so indicated that the ground for review had been based on the undermining of the licensing objective for the prevention of public nuisance. She stated that should the application be granted it would allow the premises to trade twenty-four hours Monday to Sunday, inclusive.

It was noted that a similar application had been considered by a Sub-Committee in 2008, where it was resolved that the application be refused. The applicant's appealed the decision of the Sub-Committee, however the decision was upheld.

Ms Nellany indicated that a number of complaints had been received over a number of years, predominately relating to noise nuisance from vehicles and customers leaving the premises, in particular, complaints received from the Premier Inn hotel located next to the premises in relation to customers racing their vehicles on the car park. It was noted that following the concerns raised, McDonald's closed the rear car park after 9.30pm, which alleviated some of the issues.

It was noted that the premises was in close proximity to residential properties such as Ketley Road and the residents had raised similar concerns.

Ms Nellany stated that should the application be granted to allow the premises to trade for twenty-four hours, she anticipated that the problems would increase, as she could not identify any additional steps included in the operating schedule that would address the concerns raised.

Ms Nellany raised concerns in respect of customers who would consume their food and park their vehicles on the front car park late at night, and that there were no security or litter patrols, as staff members were unable to leave the premises after 11pm.

She further stated that the drive-thru facility would encourage more customers to attend at night, and there was a twenty-four hour McDonald's restaurant available within a reasonable distance.

In concluding, Ms Nellany stated that although she appreciated the applicant's wish to expand their business, she had to balance that with the views of the residents.

Mr Rock then presented his representations, on behalf of local residents, and in doing so stated that his house was the nearest to McDonald's, and that customers would park outside his home, damage and leave litter on his property, and when he or his wife attempted to complain to the customers, they would receive verbal abuse. He further stated that he had witnessed staff from McDonald's cleaning around the premises on one or two occasions only.

Mr Rock further stated that since he had purchased his property, the public nuisance had increased and could be witnessed by his children. It was noted that a number of residents had complained to West Midlands Police, however no action had been taken.

In responding to a question by Ms Gillchrist as to how many complaints had been received since the premises extended their opening hours to 1.00 am; Ms Nellany responded that there had been no complaints received since September, 2012.

Following comments made in relation to the issues raised previously by the Premier Inn hotel, Ms Gillchrist confirmed that the two businesses worked closely together, and that there had been no official complaints raised by residents.

In responding to a question by Ms Gillchrist, Mr Rock confirmed that he had lived at his property for nine months and addressed the nuisance himself, as he understood the consequences of complaining. Ms Gillchrist suggested that it would benefit Mr Rock, and other residents, if they liaised with McDonald's to address the concerns raised and attempt to alleviate the problems.

Ms Gillchrist then presented the case, on behalf of McDonald's Restaurant Limited, and in doing so informed the Sub-Committee that the purpose of the application was to extend the trading hours until 5.00 am, and the objections received had been based on noise and litter nuisance. She stated that the applicant would work together with local residents, and although the written and verbal representations had been heard, there had been no complaints since September, 2012.

She further stated that it had become apparent that more people were working outside the core hours, in particular staff working at Russells Hall Hospital who worked during the night.

It was noted that should the Sub-Committee be minded to grant the application, an additional ten to fifteen jobs could be created with three existing members of staff being promoted. Ms Gillchrist stated that she expected the premises to improve as the restaurant would be open throughout trading hours, and the managers would patrol inside and outside the premises.

At this juncture, Ms Gillchrist outlined the measures that had and would be implemented at the premises, and that there were currently four litter patrols, and suggested that staff members could collect any litter on resident's property that was accessible.

In concluding, Ms Gillchrist stated that McDonald's was happy to act on any reasonable request from Environmental Health, and they were committed to help and encourage communication with local residents.

In responding to a question by the Chair, Mr Morris stated that staff would not have been aware of the issues in the neighbouring streets, as they had not been informed, however customers had the option of staying in the restaurant.

It was noted that there would be a minimum of three members of staff employed at the premises during the extended hours, and that an additional ten to fifteen jobs would be created.

In responding to a question by a member in relation to a full trading methodology assessment (including risk assessment) being undertaken by the applicants; Ms Gillchrist confirmed that the local residents would be considered during the process. Mr Morris stated however, that there could be problems in patrolling the neighbouring streets, as staff members had no jurisdiction.

Reference was made to the car park located to the rear of the premises, and Mrs Hoter confirmed that although the car park was closed to members of the public after 9.30 pm, it was still available to staff members who had parked their vehicle prior to 9.30 pm.

In responding to a question by Ms Nellany in relation to addressing disturbances by members of the public in the car park, Mr Morris confirmed that a manager would go to the car park and talk to the individuals. He further stated that staff members were trained and although some were comfortable than others in confronting individuals, they were all aware of their duty.

Further to comments made by Mr Rock in regard to the potential increase of customers parking in the neighbouring streets; Ms Gillchrist stated that the application should not be refused based on potential problems, and that previous applications for McDonalds's in other authorities had been approved for a period of twelve months, followed by a review at the end of that period.

In summing up, Ms Nellany, on behalf of Environmental Health, reiterated her comments made previously, and stated that the history of the premises highlighted that nuisance could arise, and that the premises was not suitable to be open for twenty-four hours, as it was in close proximity to residential properties.

In summing up, Mr Rock, on behalf of local residents, stated that the nuisance had increased over the last twelve months, and that he could not identify any possibility of the nuisance decreasing.

In summing up, Ms Gillchrist, on behalf of the Applicant, reiterated her comments made previously, and stated that the lack of complaints demonstrated that there were no evidence of nuisance, as the objections raised by Mr Rock had not been discussed with McDonalds. She further stated that it was important to increase trade and employment, and that the Sub-Committee should refuse the application only if they considered that the Licensing Objectives would be undermined.

Ms Gillchrist further stated that McDonalds were prepared to take any necessary steps, including adding conditions to the premises licence, and requested that McDonalds be given an opportunity to trade.

Following all comments, the Legal Advisor stated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties.

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

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

RESOLVED

That, subject to the following conditions being applied to the premises licence, the application for the variation of the premises licence in respect of McDonald's Restaurant Limited, Dudley Road, Kingswinford, be approved for a period of six months, and for the licence to be reviewed at the end of that period:-

Conditions

- (1) That CCTV to be operational at all times the premises are open and trading, and the recording to be kept at least 31 days.
- (2) All shift managers be safety and security trained.

- (3) That the premises operate a 'Staff Safe' system which links to an external integrated system.
- (4) The Premises will operate a no music, no running engines and no alcohol consumption policy in the car park, and signs to be posted to that effect.
- (5) The rear car park be closed to members of the public from 9.30 pm Monday to Sunday inclusive.
- (6) Self closing doors to be in operation.
- (7) 'Bin it logos' to be on packaging.
- (8) Litter patrols to be undertaken four times per day.
- (9) That the Manager carries out internal and external 'travel path' patrols within the Premises, to ensure compliance with car park and other policies
- (10) The Premises will carry out a full trading methodology assessment (including risk assessment) and mitigation process and implement the necessary mitigating procedures in respect of identified risks.

REASONS FOR DECISION

The Sub-Committee is satisfied that the ten conditions address the concerns raised by the objectors, in line with the licensing objectives, and that the six month period will enable McDonalds to consider these further.

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APPLICATION FOR A PREMISES LICENCE – WAGGON AND HORSES – 31 WORCESTER STREET, STOURBRIDGE

A report of the Director of Corporate Resources was submitted on an application for the grant of a premises licence in respect of Waggon and Horses, 31 Worcester Street, Stourbridge.

Mr J Hedges and Mr O Lawson (Applicants) were in attendance at the meeting.

It was noted that the objector, who had submitted representations prior to the meeting, was not in attendance.

Following introductions, the Licensing Clerk presented the report on behalf of the Council.

Mr Hedges, Applicant, then presented his case, and in doing so stated that he had written to the objector inviting him to discuss his concerns, as it was evident that their objection had been based on the previous management of the premises, however no response had been received.

Mr Hedges confirmed that the premises would be a real ale pub with light refreshments, and that he had spoken to local residents who had no objections.

Following a brief discussion it was

RESOLVED

That the application for the grant of a premises licence in respect of Waggon and Horses, 31 Worcester Street, Stourbridge, be approved.

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APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING – LSD PROMOTIONS LTD – FOOD/CRAFT MARKET

A report of the Director of the Corporate Resources was submitted on an application made on behalf of Mr D McGillicuddy of LSD Promotions, for the grant of consent to engage in street trading for a Food/Craft Market, on the 1st and 3rd Saturday of each month from 9.00 am until 4.00pm at a site in Ryemarket, (High Street to a point 30 metres from High Street), Stourbridge.

Mr D McGillicuddy, Applicant, was in attendance at the meeting.

Following introductions, the Licensing Clerk presented the report on behalf of the Council.

Mr McGillicuddy then presented his case, and in doing so stated that prior to leaving Stourbridge, the market had previously been sited in Ryemarket, Stourbridge, and the Ryemarket Manager had requested that Mr McGillicuddy re-apply for consent.

In responding to questions raised, Mr McGillicuddy confirmed that the market was for food and craft items only, and that stock was unloaded from vehicles in front of the bollards positioned in the Ryemarket.

Following a brief discussion, it was

RESOLVED

That the application made on behalf of Mr D McGillicuddy of LSD Promotions for the grant of consent to engage in street trading for a Food/Craft market on the 1st and 3rd Saturday of each month from 9 am to 4 pm at a site in Ryemarket, Stourbridge, be approved.

The meeting ended at 12.40 pm

CHAIR