



Licensing Sub-Committee 1

**Tuesday, 8th July, 2014 at 10.00am
in the Council Chamber at the Council House, Priory Road, Dudley**

Agenda - Public Session (Meeting open to the public and press)

1. Apologies for absence.
2. To report the appointment of any substitute Members for this meeting of the Sub-Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meeting held on 28th May, 2014 as a correct record.
5. To consider any questions from Members to the Chair where two clear days notice has been given to the Director of Corporate Resources (Council Procedure Rule 11.8).

Under the provisions of Part I of Schedule 12A to the Local Government Act 1972, the Director of Corporate Resources has decided that there will be no advance disclosure of the following reports because the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption from disclosure

The submission of these reports complies with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

6. Resolution to exclude the public and press

Chair to move:

“That the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information under Part I of Schedule 12A to the Local Government Act 1972, as amended, for the reasons stated on the agenda.”

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



Licensing Sub-Committee 1 – 8th July, 2014

Report of the Director of Corporate Resources

Variation of Designated Premises Supervisor

Purpose of Report

1. To consider the application for the variation of designated premises supervisor in respect of the Dock and Iron, 104 Delph Road, Brierley Hill, DY5 2TR.

Background

2. The Dock and Iron was first issued with a Premises Licence on the 5th December 2005 that licence was subsequently transferred on 3rd December 2008 and the 22nd December 2010, the current premises licence holder is Marstons PLC and the licence is issued as follows:-

Sale of Alcohol/Live Music/Performance of Dance

Monday – Wednesday	11.00 – 23.00
Thursday, Friday and Saturday	11.00 – 00.00
Sunday	11.00 – 23.00

Regulated Entertainment (Films/Indoor Sporting Events/Recorded Music)

Monday – Saturday	11.00 – 23.00
Sunday	11.00 – 22.30

Late Night Refreshment

Thursday, Friday and Saturday	23.00 – 00.00
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To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours. Such opening times for this purpose to be confirmed upon 14 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown, with a right of police veto within seven days.

Non standard timings Saturday, Sunday and Monday at bank holiday weekends
Christmas Eve and Boxing Day to 00.00
New Year's Eve 10.00 to terminal hour on New Year's Day

3. On the 30th May, 2014, Flint Bishop, Solicitors on behalf of Marstons PLC made application for the variation of designated premises supervisor in respect of Mr Geoffrey Thomas Badlan.
4. A copy of that application has been circulated to Committee Members and interested parties.
5. On the 11th June, 2014, the West Midlands Police raised objections to the application, a copy of the representations received from the West Midlands Police have been circulated to Committee Members, the applicant, proposed designated premises supervisor and interested parties.
6. This application falls within the Council's responsibility for liquor licensing, which has a direct link to the Council's key corporate priority that safety matters.

Finance

7. There are no financial implications

Law

8. The law relating to the granting of applications to vary a licence to specify individual as premises supervisor is governed by the Licensing Act 2003, part 3, section 37.
9. Pursuant to Part 3, Section 37(5) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reason why he is so satisfied.
10. Pursuant to Part 3, Section 37(6) the Chief Officer of Police must give that notice within the period of 14 days beginning with the day he is notified of the application.
11. Pursuant to Section 39(3), the Licensing Authority must:-
 - (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of Police who gave notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.
12. Pursuant to Regulation 26(1) of the Licensing Act, 2003 (Hearing Regulations, 2005) the Licensing Authority must make its determination at the conclusion of the hearing.

13. Where an application under Section 37 is granted or rejected pursuant to Section 39(4), the Licensing Authority must give a notice to that effect to:-
 - (a) the applicant
 - (b) the proposed individual, and
 - (c) the Chief Officer of Police for police area in which the premises are situated.
14. Pursuant to section 39(5) the notice must state the authority's reasons for granting or rejecting the application.
15. Pursuant to section 39(6) where the application is granted, the notice must specify the time when the variation takes effect.
16. Pursuant to schedule 5, part 1 1(c) if the Licensing Committee refuse to grant the application to vary a licence to specify individual as premises supervisor there is a right of appeal to the Magistrate's Court.
17. Pursuant to schedule 5, part 1 5(1) and (2) if the Licensing Committee grants the application to vary a licence to specify individual as premises supervisor in a case where the Chief Officer of the Police gave notice under section 37(5) the Chief Officer of the Police may appeal against the decision to grant the application.

Equality Impact

18. This report complies with the Council's policy on equal opportunities.
19. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
20. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

21. That the Sub-Committee consider the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

Agenda - Private Session
(Meeting not open to the public and press)

7. Variation of Designated Premises Supervisor – The Dock and Iron, 104 Delph Road, Brierley Hill.

A handwritten signature in black ink, appearing to be 'P. Z.', written in a cursive style.

Director of Corporate Resources

Dated: 26th June, 2014

Distribution:

Councillor D Russell (Chair); Councillors D Blood and C Perks

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- The Democratic Services contact officer for this meeting is Karen Taylor, Telephone 01384 818116 or E-mail karen.taylor@dudley.gov.uk