

Licensing

Sub-Committee

26th April 2012

MINUTES

Sub-Committee Members Present:

Councillor Michael Braley (Chair), Malcolm Hall, Alan Mason and reserve member Councillor Roger Hill

Officers:

C Flanagan (Legal Services Manager)
A Fox (Senior Licensing Practitioner)
P Ross (Democratic Services Officer)

Applicant's Side:

Mr A Evans, Counsel, instructed by Shoosmiths
Mr S Bennett, Area Manager, McDonalds

Also in attendance:

Councillor Carol Gandy, Ward Member for Headless Cross and Oakenshaw

Observers:

T Phelan (Licensing Officer)
D Sunman (Democratic Services Officer)

1. CHAIR'S WELCOME

The Chair opened the Hearing and introduced the Members of the Sub-Committee and officers present. The Chair explained to all parties the procedure to be followed during the Hearing.

2. APOLOGIES

No apologies for absence were received.

3. DECLARATIONS OF INTEREST

No declarations of interest were received.

4. APPLICATION FOR A PREMISES LICENCE - MCDONALDS, CLEWS ROAD, OAKENSHAW, REDDITCH

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Licensing Sub-Committee

26th April 2012

The Sub-Committee was asked to consider an application for a premises licence in respect of McDonalds, Clews Road, Oakenshaw, Redditch, Worcestershire, B98 7ST. The application was subject to a Hearing in the light of a representation which had been made by the Ward Member for Headless Cross and Oakenshaw. The basis of their representation related to noise nuisance.

The Senior Licensing Practitioner introduced the report and in doing so informed the Sub-Committee that there was no further update to provide with regard to the application.

Mr A Evans, legal representative for the applicant, presented the case on behalf of Mr Robert Holdcroft. He explained that the application was supported by the proposed detailed operating schedule and that no representations had been received from residents. He informed the Sub-Committee that the store operated an incident book and there had been no evidence of noise complaints to the store over the last two years and no representations had been received from Environmental Health, one of the Responsible Authorities consulted. He therefore felt there was an absence of any clear evidence on the representation received on the grounds of the prevention of public nuisance. The Sub-Committee were further informed that 18 months previously Mr Holdcroft had attended local residents' meetings in relation to complaints received with regard to noise and in response he had taken specific measures to address the concerns raised and no complaints had been investigated during the last two years.

At the invitation of the Chair, Councillor Carol Gandy, Ward Member for Headless Cross and Oakenshaw put forward the case for residents and in doing so informed the Sub-Committee that residents had requested that she represented them at the Hearing as their advocate. Residents had raised concerns with regard to potential noise nuisance during the extended opening hours. They had accepted possible noise nuisance until 11:00pm but had expressed concern with the extended opening hours and potential noise nuisance until 2:00am. Members were informed that Councillor Carol Gandy had received an email from the local beat officer, which included a list of suggested conditions to be applied to the licence if granted. Mr Evans, legal representative for the applicant, expressed concern that no representation had been received from the police, which had been consulted and therefore felt that the suggested conditions could be viewed by Members on the basis that they formed part of Councillor Carol Gandy's representation and not those of the police.

Licensing Sub-Committee

26th April 2012

Following a number of questions to the applicant's representative, all parties concerned then took the opportunity to sum up their cases.

Having had regard to:

- the Licensing Objectives;
- Guidance issued under section 182 of the Licensing Act 2003;
- the Borough Council's Statement of Licensing Policy;
- the Application made by the Applicant;
- the representations made by interested parties (both in writing prior to and in person at the hearing)

The Sub-Committee RESOLVED that

in relation to the Premises Licence at McDonalds, Clews Road, Oakenshaw, Redditch:

that the application for a premises licence for the provision of Late Night Refreshment be granted as follows:

- **23:00hrs to 00:00hrs Sunday to Thursday**
- **23:00hrs to 02:00hrs Friday and Saturday**

The Sub-Committee imposed the following conditions to be applied within one month of the new licence being granted:

- 1. The provision of a contact telephone number for the premises and its display at the premises.**
- 2. The operator's complaints book to be made available for inspection.**
- 3. A sign be displayed at the entrance to the 'drive thru' seeking the co-operation of customers to limit the noise from their vehicles including engine, radios and music to a minimum in consideration of residents.**

This decision will be confirmed in writing to all parties.

The Chair stated that all parties should be aware that any issues that do arise should be addressed in the first instance to the operator.

Summary of Legal Advice

The Sub-Committee received the following legal advice:

Licensing Sub-Committee

26th April 2012

- The Licensing Objectives must be the paramount consideration.
- Conditions must be necessary for the promotion of one or more of the licensing objectives; conditions may not be imposed for any other reason.
- The Sub-Committee shall disregard any reference to any planning conditions or planning issues in that they do not form part of the licensing objectives.

The Meeting commenced at 2.00 pm
and closed at 3.30 pm