

## LICENSING SUB-COMMITTEE

16th December 2015

### MINUTES

---

**Present:**

Councillor Tom Baker-Price (Chair), Councillors Pat Witherspoon and Natalie Brookes

Councillor Jennifer Wheeler (Observing)

**Also Present: Ms Clare Johnson, Gosschalks Solicitors, Applicants Representative, Ms Kelly Nichols, Licensing Manager, Morrisons and Mr David Gibson, local resident**

**Officers:**

Kevin Barnett and Sayful Alom

**Committee Officers:**

Pauline Ross

**5. CHAIR'S WELCOME**

The Chair opened the Hearing and introduced the Members of the Sub-Committee and Officers present. At the request of the Chair all other parties present gave a brief introduction.

**6. APOLOGIES**

No apologies for absence were received.

**7. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**8. APPLICATION FOR A VARIATION TO A PREMISES LICENCE - MORRISONS SUPERSTORE, CLEARWELL ROAD, REDDITCH, WORCESTERSHIRE, B98 0SW**

The Sub-Committee was asked to consider an application for a variation to a premises licence made by Morrisons Superstore, Clearwell Road, Redditch, Worcestershire, B98 0SW.

.....  
Chair

# LICENSING SUB-COMMITTEE

16th December 2015

---

The application having been submitted in order to apply for the following variation to their existing licence as follows:-

- To extend the permitted hours for sale of alcohol to Monday to Sunday 06:00 hours – 24:00 hours.

The application was subject to a Hearing in light of a representation received from a member of the public objecting to the grant of the variation on the grounds of Public Nuisance. The representations related primarily to:-

- An increase in noise nuisance from people congregating in their vehicles, playing loud music, engines revving, squealing of tyres and extreme driving around the customer car park.
- An increase in noise nuisance from commercial vehicles and refrigeration units that are parked overnight in the customer car park.
- A potential increase in anti-social behaviour, fuelled by alcohol.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) introduced the report and, in doing so, informed the Sub-Committee that, as detailed in the report, no representations had been received from any of the Responsible Authorities.

At the invitation of the Chair, Ms Clare Johnson of Gosschalks Solicitors, the applicant's representative, spoke in support of the variation and informed the Sub-Committee that Morrisons operated 500 premises in the United Kingdom, in city centres, towns and cumulative impact areas. Morrisons had never had a premises licence called in for review at any of their 500 premises, as Morrisons was a hugely experienced business.

Morrisons had applied for around 360 variations to extend permitted hours for the sale of alcohol to, Monday to Sunday 06:00 hours – 24:00 hours. The additional hours requested had included Sunday, with a view, that, should Sunday trading hours be changed, Morrisons would not have to apply for any further variations.

Ms Johnson highlighted that, as stated earlier by the Technical Officer (Licensing), WRS, no representations had been received from any of the Responsible Authorities, which included the police and Environmental Health in respect of noise nuisance; and that no representations had been received from the local Ward Councillors. Only one representation had been received, from Mr Gibson, a local resident.

# LICENSING SUB-COMMITTEE

16th December 2015

---

Ms Johnson informed the Sub-Committee that the representation received from Mr Gibson referred to the operation of the store not dealing with noise issues arising from the use of the car park, and that there were no relevant issues raised by Mr Gibson with regard to the sale of alcohol at the premises. Therefore, in her opinion, his representation was not a valid representation as it did not relate to matters involving the sale of alcohol / the licensing objectives.

Ms Johnson further informed Members that she had spoken with the Store Manager, who had informed her that no complaints had been received at the store in the eighteen months he had managed the store. She would therefore ask Mr Gibson for further evidence of the issues he had raised in his representation. She would reassure Mr Gibson that the premises would be properly managed, and that, no unauthorised vehicles would be able to park overnight as they would be asked to move. She had also provided Mr Gibson with the Store Manager's name and direct contact details, should he experience any future issues.

Ms Johnson drew Members' attention to Mr Gibson's representation, where he had stated that "allowing an increase in their opening hours may well intensify anti-social behaviour, especially if alcohol fuelled". This was pure speculation as there were no actual issues emanating from the store relating to the sale of alcohol. She would reiterate that none of the Responsible Authorities or any other local residents had complained and that there was no evidence that any of the issues raised by Mr Gibson could be attributed to the sale of alcohol from the store. She would suggest that Mr Gibson's concerns did not relate to the sale of alcohol, and the company had an impeccable reputation in respect of responsible alcohol retailing.

At the invitation of the Chair, Mr David Gibson, local resident explained to the Sub-Committee the reasons for his representation.

Mr Gibson highlighted that he was often disturbed after 10:00 p.m. by noise emanating from the area in which the store was located. The noise came from groups of youths congregating in cars and using the car park to 'show off'. He had no grievance with Morrisons. Mr Gibson was concerned that should the additional hours be granted, that the issues he had experienced would be pushed back to later in the evening. He had spoken with the Store Manager who had agreed that he often found debris on their car park in the mornings. The Store Manager had stated that he had no idea who had left the debris. The Store Manager had informed Mr Gibson that he wanted the store to be an asset to the local community. Mr Gibson was of the opinion that Morrisons had no idea who was using their car park and appeared to have no

# LICENSING SUB-COMMITTEE

16th December 2015

---

concerns as to whether it was welcome or unwelcome visitors using it. He wanted the staff to identify any issues and to address any nuisance activity going on.

Mr Gibson said that he had contacted a local councillor and Environmental Health who had visited the store, but he felt that they were just given tea and sympathy during their visits.

HGV vehicles often turned up on Morrisons car park at 4:00 p.m. to use the same as an overnight stop. Morrisons staff were aware, but failed to do anything about them. They had no measures in place to address any issues.

In response to Members, Mr Gibson clarified that he had emailed the store and their Head Office in March 2015 with regard to a HGV vehicle, with its refrigeration unit running, being left on their car park. He had also provided the duty manager, Mr Waring, with photographic evidence. Environmental Health had attended in respect of this isolated incident but nothing further was done.

All parties then had the opportunity to sum up their cases.

The Technical Officer (Licensing), WRS, referred to the four licensing objectives.

Ms Johnson of Gosschalks Solicitors, referred to Section 10 of the Revised Guidance issued under section 182 of the Licensing Act 2003; that licensing authorities should ensure that any conditions imposed were only those which were appropriate for the promotion of the licensing objectives; and that the Sub-Committee's determination should be made on evidence-based information.

Ms Johnson drew Members' attention to Mr Gibson's representation and asked Members to disregard any comments made that were inappropriate and speculative. Any decision taken by the Sub-Committee should be determined on the basis of the evidence provided. The issues and concerns raised by Mr Gibson were not due to the sale of alcohol from the premises.

Ms Johnson drew Members' attention to the fact, that, as stated earlier by Mr Gibson, there had only been one isolated incident in March 2015, whereby a HGV vehicle had parked on Morrisons car park and that staff at Morrisons had dealt with the matter accordingly and had asked the driver to remove his vehicle.

In summing up Mr Gibson asked the Sub-Committee to consider his representation and felt that little restriction had been placed on the premises, when the site was approved, in order to stop any impact

on local residents. In his opinion longer trading hours would result in him experiencing the same issues but at a later hour. Morrisons were asking a lot from local residents and he would ask the Sub-Committee to put a restriction on the variation to their premises licence.

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 report presented by the Technical Officer (Licensing), Worcestershire Regulatory Services;
- the application and oral representations made at the Hearing by Ms Clare Johnson, Gosschalks Solicitors, the applicant's representative;
- the relevant written representation and oral representations made at the Hearing by Mr David Gibson, local resident.

**the Sub-Committee RESOLVED that the application for a variation to a premises licence relating to Morrisons Superstore, Clearwell Road, Redditch, Worcestershire, B98 0SW be granted, in terms that are consistent with the proposed operating schedule.**

Whilst the Sub-Committee fully appreciated the concerns raised by Mr Gibson, it was clear that these did not directly relate to the variation requested, or indeed the sale of alcohol generally, and, as such, they could not properly be regarded as relevant reasons for refusing the variation or imposing additional conditions in respect of same.

In particular the Sub-Committee noted that no representations had been made by any of the Responsible Authorities, nor by other residents, and whilst they were sympathetic to the position of Mr Gibson in respect of the problems he had encountered with regards to noise nuisance, the Sub-Committee were mindful that there was no appropriate evidence before them that would persuade them that any existing problems would be increased by grant of the variation.

The Sub-Committee took the view that all of the information presented to it, rather than those matters of simple conjecture, pointed to the fact that this was a responsible operator, running well-managed premises, and the promotion of the licensing objectives would best be served by granting the variation applied for, subject to those conditions as set out in the operating schedule.

# LICENSING SUB-COMMITTEE

16th December 2015

---

Clearly, if proper evidence subsequently came to light regarding actual problems at the premises, rather than perceived problems, then it would be open to the police or local residents or any other responsible authority to seek a review of the licence.

The following legal advice was given:

- That the Licensing Objectives must be the paramount consideration;
- That the Sub-Committee may only have regard to representations which promote the four licensing objectives; and
- That the Sub-Committee must consider only those matters relevant to the premises.

In reaching its decision the Sub-Committee has had regard to the representations made; the provisions of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Act and Redditch Borough Council's Statement of Licensing Policy.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision was received by the Applicant.

The Meeting commenced at 5.11 pm  
and closed at 5.51 pm