

LICENSING SUB-COMMITTEE B

TUESDAY, 15TH FEBRUARY, 2022

PRESENT: Councillor H.I. Jones [Chair]

Councillors:

W.T. Evans, J.S. Phillips and J.E. Williams

The following Officers were in attendance:

R. Edgecombe - Legal Services Manager
E. Jones - Licensing Lead
A. Rees - Licensing Officer
E. Evans - Principal Democratic Services Officer [Webcasting]
E. Bryer - Democratic Services Officer
J. Owen - Democratic Services Officer [Note Taker]
J. Owens - Democratic Services Officer
A. Eynon - Principal Translator

Virtual Meeting : 10.00 am - 12.45 pm

1. DECLARATIONS OF PERSONAL INTEREST

There were no declarations of personal interests.

**2. APPLICATION FOR A PREMISES LICENCE - MCDONALD'S, TENBY ROAD, ST
CLEARS, CARMARTHENSHIRE, SA33 4JW**

The Legal Services Manager briefed all present on the procedure for the meeting, which had been convened to consider an application received from McDonald's Restaurant Limited for a premises licence to allow:

Late Night Refreshment Monday to Sunday 23:00 – 05:00
Opening Hours Monday to Sunday 05:00 – 05:00.

The application had been put before the Sub-Committee, following receipt of numerous complaints regarding the operation of the premises in relation to noise, anti-social behaviour and crime and disorder.

The Sub-Committee noted the following documentation was attached to the report:-

Appendix A – The original Review Application;
Appendix B – Licensing Authority Representation;
Appendix C – Dyfed Powys Police Representation;
Appendix D – Environmental Health Representation;
Appendix E – Other persons Representations.

In addition to the above, a supplementary agenda was published and circulated to all parties in advance of the meeting that day to include the following information in addition to Appendices:-

1. Additional Other Person's Representations;
- 2a. Amended Environmental Health Representation;
- 2b. McDonalds Anti-Social Behaviour Workbook;
- 2c. Mc Donald's Litter Management Plan;
- 2d. The Planning Inspectorate – Appeal Decision.

The Licensing Lead referred to his written representations, detailed in Appendix B1 to the report, detailing information regarding the application and his response thereto including, having regard to the relevant sections of the Statutory Guidance and the Council's Local Licensing Policy. He advised that the Licensing Authority supported the application and the conditions, proposed by the Responsible Authorities; Dyfed-Powys Police and the Environmental Health Service, as amended.

All parties present were afforded the opportunity of questioning the Licensing Lead on his submission.

The Legal Services Manager informed the Sub-Committee that the representations by the Dyfed Powys Police (Appendix C) had been agreed and therefore the Police representative was not in attendance. In addition, the representations by the Environmental Health Practitioner (Appendix D) had been agreed and therefore the Mr Aled Morgan was not in attendance.

The Sub-Committee thereupon received representations from interested parties objecting to the application for grant of a premises licence premises licence to allow extended operating hours to provide 'Late Night Refreshment Monday to Sunday 23:00 – 05:00; Opening Hours Monday to Sunday 05:00 – 05:00 on the grounds detailed in Appendix E to the report.

A representation was received by the Local Councillor P. M. Hughes objecting to the application, referred to his written representations, as detailed in Appendix E1 to the report and highlighted the following concerns:-

- Increase in litter and anti-social behaviour;
- Potential to become a rat run for boy racers;
- Increase in traffic movements leading to an increase in noise, air pollution and light pollution all of which was predicted to create a public nuisance to all residents and in particular those in close proximity of the site.

In addition, Councillor Hughes requested that the Sub-Committee defer their decision until after a Site Visit in order to view the lay out of the site and its access.

All parties present were afforded the opportunity of questioning the local Councillor on his representations.

Oral representations were received from the following local residents objecting to the application referring to their written representations within Appendix E:

- Mrs Jane Jones - as detailed in Appendix E3 to the report;
- Mrs Wendy Hill (on behalf of Mrs Shirley Taylor) - as detailed in Appendix E4 to the report;
- Mrs Alison Griffiths - as detailed in Appendix E9 to the report;
- Mrs Ann Morgan - as detailed in Appendix E16 to the report;

- Mr Simon Evans - as detailed in Appendix E17 to the report;
- Mrs Rhian Owens & Mr Gareth Owens - as detailed in Appendix E19 to the report.

In summary, the main areas of concern were in relation to:-

- The McDonald's site is surrounded by residential properties and should the application be granted there would be an increase throughout the night in:
 - Traffic Movement
 - Noise Pollution
 - Light Pollution
 - Sleep deprivation/Mental Health Issues.
- Should the application be granted it would be detrimental to the well-being of local residents.
- The next available McDonalds that is open 24hrs is only 10minutes away in Carmarthen and is located in a non-residential area.
- The site was making elderly residents feel vulnerable.
- No/or very little communication has been made between developers and local residents.
- Concerns about anti-social behaviour and the potential that McDonald's customers would use private streets to eat their meals.
- The initial traffic monitoring was located in a place that did not include the area of Starbuck/Travelodge and therefore was not a realistic representation of the current traffic around the site in question.
- The 24hr fast food operation would have a detrimental effect on the health of residents and add to the obesity pandemic.
- Concerns of inaccuracies and errors throughout the Noise Impact Assessment (D19 of the report).
- An increase of litter in the surrounding area.
- The application would be of no/little benefit to local businesses.
- Original planning permission was granted on the basis of normal operating hours only. To allow this application would set a precedent for future applications to be granted 24/7 status.
- Concern regarding the safety of customers attending the site on foot.
- Have a detrimental impact on St Clears as it was a small residential town with minimal infrastructure.
- CCTV – concerns that there was only CCTV in the restaurant and not available in the car park or the surrounding areas.

- Concerns about what provision would be in place to monitor light/noise pollution.
- A Site Visit prior to the decision being made was welcomed and advocated.

All parties present were afforded the opportunity of questioning each party on the representations made.

Mr Charalambides, Counsel for the applicant was afforded the opportunity of responding to the points raised, summarised as follows:-

- That this was an application for extended hours only and many of the points raised would have been considered in the previously granted planning matters and therefore was not appropriate for consideration at this meeting.
- Measures had been put in place to mitigate adverse impacts eg Anti-Social Behaviour Workbook, Litter Management Plan etc.
- It was advised that a Site Visit would not be appropriate to the application in question and by doing so could encourage local residents to further raise matters which would not be in accordance with the statutory licensing guidance.
- Monitoring of light/noise/litter would be carried out by the Franchisee by way of a continuous risk assessment.
- Communication with local residents had been undertaken and methods of which were explained.
- Should the application be refused, the premises would continue to operate from 5am to 11pm every day and without any of the proposed license conditions.
- The Police had included the matter of a CCTV provision within its conditions.
- The 3 Responsible Authorities had made their representations, none of which were opposed to the application, subject to specific conditions being adhered to.

All parties present were afforded the opportunity of questioning Mr Charalambides on his representation and responses.

The Sub-Committee thereupon

UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12 to the Local Government Act.

Having regard to the relevant paragraphs of the Licensing Authority's Statement of Licensing Policy and the Statutory Guidance issued under section 182 of the Licensing Act 2000, particularly those identified in the agenda item, and paragraph 2.21, to which it had been referred by counsel for the applicants it was:

UNANIMOUSLY RESOLVED, having considered all the evidence placed before it, that the application should be granted subject to the licence conditions agreed between the Responsible Authorities and the Applicant.

REASONS

In coming to its decision, the Sub-Committee made the following findings;

1. The premises is located on the outskirts of St. Clears close to a busy highway.
2. The premises and the entrance to the site is close to several residential properties.
3. The premises forms part of a wider development which has planning consent for other food outlets, and a petrol station.
4. The police and public health services have made representations regarding the imposition of licence conditions at the premises which the applicants have agreed to.
5. None of the Responsible Authorities that have made representations have objected in principle to the grant of the application.
6. If the application were to be refused, the premises would still be able to operate from 5am to 11pm every day and none of the proposed license conditions would then apply.

The Sub-Committee acknowledged that this application was not a re-run of the planning application process. Issues of need and the commercial impact of the premises were not relevant considerations under the Licensing Act.

As required by law, the Sub-Committee had attached weight to the views of the Responsible Authorities that had made representations and noted that none of them believed that it was appropriate to refuse the application.

The Sub-Committee recognised that its decision must be based upon real evidence, and that concerns and fears about what might happen if a licence were granted, were unsupported by such evidence, were not matters which they could properly consider.

The Sub-Committee appreciated the genuine concerns of local residents about the impact that the granting of a licence may have. However, those concerns had not been supported at the hearing by meaningful real evidence of problems at or in the vicinity of the premises since it opened.

In the absence of real evidence of problems at the premises since it opened, the Sub-Committee felt it had no justification for departing from the views of the Responsible Authorities. Therefore, it was satisfied that it was appropriate to grant the licence subject to the conditions agreed to between the applicant and Responsible Authorities and that those conditions were a proportionate response to the issues identified.

Considering the above findings, the Sub-Committee felt there was no legal basis upon which it could justify adjourning matters for a site visit to be held.

CHAIR

DATE