
**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON FRIDAY, 14TH DECEMBER, 2018 AT 10.00 AM
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

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| Present: | Councillors Cossens, Watson, White and Davis |
| Also Present: | Mr Craig Newnes (Franchisee for McDonalds), Mr Freddie Humphries (Barrister, Shoosmiths) |
| In Attendance: | Karen Townshend (Licensing Manager), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Emma King (Licensing Officer) and Debbie Bunce (Legal and Governance Administration Officer) |

21. CHAIRMAN FOR THE MEETING

It was moved by Councillor White, seconded by Councillor Watson and:-

RESOLVED – That Councillor Cossens be elected Chairman for the meeting.

22. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Premises/Licences Sub-Committee held on 14 September 2018 were approved as a correct record and signed by the Chairman.

23. DECLARATIONS OF INTEREST

Councillor Davis declared a Personal Interest in the item in that she had been a Management Trainee for McDonalds many years ago.

24. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

25. A.1 REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - APPLICATION FOR THE GRANT OF A PREMISES LICENCE - TEARDROP SITE, WILLIAMSBURG AVENUE, HARWICH, ESSEX CO12 4GA

The Chairman (Councillor Cossens) welcomed everyone to the meeting and made introductory remarks.

The Council's Licensing Manager (Karen Townshend) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operational Services), an application for the Grant of a Premises Licence at the Teardrop Site, Williamsburg Avenue, Harwich.

Section 2.2 of the written report set out the proposed opening hours for the premises which were:

Mondays to Sunday 0000 hours to 2359 hours.

The Licensing Manager reported that the proposed licensable activities applied for by the applicant were before Members in Sections 3.1 to 3.4 of the written report.

The applicant had stated the steps that they proposed to take to promote the statutory Licensing Objectives within the Operating Schedule and those were detailed in Sections 4.1 to 4.5 inclusive.

Members were further informed that two e-mails and one letter of representation/objection had been received in relation to this application.

It was reported that no Responsible Authorities had made representations on the application.

The Sub-Committee had before it for its information the relevant extracts from the Council's Statement of Licensing Policy in respect of planning considerations and the statutory 'Prevention of Public Nuisance' Licensing Objective.

Members also had before them for their assistance the relevant paragraphs from the Home Office's Section 182 Guidance that accompanied the Licensing Act 2003 in respect of the following –

- (1) Prevention of Public Nuisance;
- (2) Prevention of Crime and Disorder; and
- (3) Planning and Building Control.

The Chairman stated that he wished to give an equal amount of time to both the applicant and the objectors to make their cases. He proposed 15 minutes for each side.

Mr Craig Newnes, Franchisee for McDonalds gave a brief summary of his employment with McDonalds, with whom he had begun employment in 1990. He had been an Operations Manager for 16 years, responsible for 50 restaurants across Essex and East London. He had been a franchisee for a number of McDonalds' restaurants including some that were open 24 hours. He was now a franchisee for several McDonalds in the area including Clacton, Weeley and Colchester and also owned the Sudbury Restaurant. In 2017 Colchester Borough Council had asked him to be one of 6 Ambassadors for the town, and he was now a Colchester Ambassador as well as being part of Colbac, the Colchester against Crime group. He had joined Sudbury Chamber of Commerce from day one, and he was also involved in Sudbury in Bloom and Weeley in Bloom. He had recently been involved in a "community litter event" where, over 6 hours in the rain, he and others had collected 50 bags of rubbish. He was also involved with the Clacton Town Partnership and he had recently been approached to sit on the Town Centre Working Party. He was proud that Harwich would now have a McDonald's restaurant: they had hired 100 new staff to work there. He stated that Mr Daryl Burley who was also in attendance at the meeting would be the Manager of the Harwich Restaurant.

Mr Freddie Humphries, Barrister at Shoosmiths who were representing McDonalds then gave representations to the Sub-Committee.

He stated that Mr Newnes was already operating five restaurants with 24 hour opening, with two of those located in the Tendring area. Mr Newnes had heavy experience in dealing with issues but there had been no complaints about those restaurants since Mr Newnes had taken them over in March.

He stated that Mr Daryl Burley had 2 years' experience as manager at the Weeley restaurant, and so had experience for the Harwich restaurant.

He stated that he thought that there had been some confusion over the planning permission and the operating times for the site. The site comprised of a Costa Coffee at one end of the site and McDonalds at the other end of the site – the overhead plan, at page 31 of the Officers' report, did not show the position of the Costa Coffee building, and he then proceeded to show everyone present where on the plan Costa Coffee was. The planning permission had made a condition in respect of the Costa Coffee that they were only allowed to open until 11.00 p.m. in the evening, whereas the McDonalds site had no such restrictions. The Costa Coffee shop was nearer to the residential area of Williamsburg Avenue. He stated that there was no need for the users of McDonalds to travel into the residential area in order to gain access to McDonalds. He said that it was not likely there would be an issue with the noise of cars etc. as the roundabout already took the area's traffic and he did not think vehicles using McDonald's would add any further noise.

He reiterated the comments made on the application form in respect of CCTV in that the CCTV was of evidential quality if it was needed to show evidence of any incidents in the area. Whilst 12 cameras would be acceptable for premises of this size and layout, there were 24 cameras on-site in the interests of staff and customers' safety. The cameras were 24 hour cameras at the site. The restaurant also operated the Staffsafe system which had audio and visual monitoring capabilities which could be activated by either fixed or mobile panic buttons. This system linked to a CCTV operator and they could then send outside help if there were any incidents at the Restaurant.

He stated that staff also had appropriate training to deal with any situations including the manager who had security and conflict resolution training.

He spoke about the issues of littering which had been raised by objectors. He said that the Restaurant did a litter pick every day. All litter regardless of where it originated from would be picked up on a daily basis from The Avenue. There were six bins in the car park and also 'target' bins at the entrances to the car park and that they aimed to keep the local area tidy and free from litter as much as possible. The Company were only responsible for what it could control, and kept its own areas as clean and tidy as it could.

The Chairman then asked the Sub-Committee whether they had any questions for Mr Newnes and Mr Humphries.

Councillor Watson asked whether you had to drive from McDonalds to Costas and Mr Humphries stated that the car park was a shared car park with McDonalds at one end and Costas at the other.

Councillor Cossens said that he was concerned about cars coming into the car park late at night, and particularly “hot hatches”. Mr Newnes stated that the majority of customers drove in and that during the night time hours it was mainly the Police/Ambulance Service that used the Restaurant.

Councillor White asked whether any boats came in during those hours. Mr Newnes said that no boats were coming into Harwich overnight, the last came in at midnight and the next boat was after 5 am so this would not increase the amount of cars coming and going in the car park.

Mr Newnes stated that there had only been one complaint at the Colchester Restaurant about 3 years ago about a noisy driver and this had been dealt with by the Police and the offender had been prosecuted. Any issues with the late night opening were addressed by the restaurant as far as possible.

Councillor White asked whether there was a need for late night refreshment and it was stated that Drive-Thru’s tended to have less noise and had so far not been a problem for them.

Councillor Cossens said that he was concerned about the litter as he had noticed a lot of litter in connection with the Weeley restaurant although this had been better of late and asked how the Restaurant dealt with litter further away from the restaurant.

Mr Newnes said that in the past he had been approached by a resident regarding litter from the restaurant in Great Bentley and he accompanied the gentleman, Councillor Zoe Fairley’s father, to see where the problem was. A litter pick was undertaken. Mr Newnes stated that if a problem of littering was brought to his attention then he would always do his best to try and resolve the problem. He said that additional signage had been put up at the Weeley Restaurant to try and stop any littering issues. Mr Newnes said that if he was in Harwich and learned that there was a “hot spot” they would go and address the issue and also said that Moses was doing a great job at Weeley walking around the site in a yellow jacket.

The Chairman then asked the objector, Terry Rogers if he had any questions for Mr Newnes or Mr Humphries. Mr Rogers stated that Harwich Town Council had recently passed a resolution to employ two PCSO’s for the area to deal with problems in the area. He said that he felt that McDonalds would only exacerbate the problems there with low level crime and asked how they related their statements to Harwich appointing two PCSO’s. It was pointed out that neither the Committee nor the Applicant knew the basis upon which Harwich Town Council had decided to appoint two PCSO’s.

Ms Thompson, who was also objecting to this application asked how many of the Restaurants that Mr Newnes ran were on the edge of residential housing estates.

Mr Newnes said that he operated five drive-thru restaurants. Colchester McDonalds in Cowdray Avenue was opposite a housing estate, and that near the stadium was also close to a residential area, and the new Clacton restaurant had housing nearby. With this newly opened restaurant he had had a complaint regarding an illuminated sign and his solution had been to switch the sign off during the night.

The Chairman then asked the objector, Ms Thompson to present her representations to the Sub-Committee.

Ms Thompson said that she welcomed business to the area and it brought many good things, and would do the right things on its own site but any problems from the restaurant would be a nuisance for the residents nearby particularly if cars visiting the restaurant went into the nearby residential areas which were mostly a lot of small roads.

The Chairman then asked the objector, Mr Rogers to present his representations to the Sub-Committee.

Mr Rogers said that although an applicant did not have to provide a basis for their application or set out any benefits, any objectors must meet the criteria set down in the Licensing Objectives. He felt that his objections came under the licensing objective of preventing public nuisance. He stated that the planning application decision stated that the restaurants could not open outside of the hours 02300-0500 hrs for noise and disturbance reasons and keeping them to a minimum. He felt that the Planning Authority had considered this and decided that residential amenity took priority. He said that although McDonalds was not yet operational it was hard to know what the issues would be, and it was impossible to extrapolate evidence from elsewhere. He felt that the Sub-Committee should reject the application and McDonalds make another application in twelve months' time to gauge if there were any issues during that time.

Mr Humphries stated that the condition on the planning permission in respect of operating times was only in respect of the Costa Coffee site and not the McDonalds site. There were no restrictions on operating times on the McDonalds site. The only requirement was for them to apply for a Late Night Refreshment Licence to serve hot food after 11.00 p.m.

Mr Rogers stated that the planning conditions were not at all clear and asked should the Planning Decision Notice relate to both sites given the proximity of Costa and McDonalds to each other.

The Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then withdrew from the meeting for the Sub-Committee to consider the application and reach a decision.

After a period of time the Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then returned to the meeting and the Council's Solicitor confirmed that she had not provided any specific legal advice to the Sub-Committee whilst it was making its decision.

The Chairman of the Sub-Committee then read out the following decision:

Application No: 18/00615/PREMGR – Application for the Grant of a Premises Licence in respect of McDonald's Restaurants Ltd, Teardrop Site, Williamsburg Avenue, Harwich, Essex CO12 4GA.

1. The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from residents along with the

Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.

2. The decision of the Sub-Committee is to **GRANT** this application in full.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have a right of appeal to the Magistrates' Court.

This Decision was made today, 14 December 2018 and will be confirmed in writing to all parties."

The meeting was declared closed at 11.29 am

Chairman