

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Monday, 27 March 2023

Present:

Members: Councillor L Bigham (Chair)
Councillor G Hayre
Councillor S Keough

Other Members: Councillors R Bailey and R Brown (Cheylesmore Ward Councillors)

Employees Present:

Law and Governance S Ahmed, U Patel, C Sinclair

Streetscene and Regulatory Services R Masih

Public Business

1. Appointment of Chair

RESOLVED that Councillor L Bigham be appointed as Chair for the hearing.

2. Apologies

There were no apologies for absence.

3. Declarations of Interest

There were no declarations of interest.

4. Application for a Premises Licence Application under the Licensing Act 2003

The Sub-Committee considered an application for a Premises Licence in respect of McDonalds, 275 London Road, Coventry. The application was for a Late Night Refreshment Licence from Monday to Sunday from 23:00-05:00.

Six representations objecting to the application had been received from interested persons, on the basis that should the application be granted, it could undermine the licensing objectives of Prevention of Crime and Disorder and the Prevention of Public Nuisance.

None of the Responsible Authorities had objected to the application.

The Licensing Officer gave a brief summary of the application and confirmed that all licensing formalities had been complied with.

The Applicant had voluntarily added the following condition which has been agreed with the Police:

“The premises CCTV digital recording system will have a minimum of 28 days recording capability and will be in operation whenever the premises are open for a licensable activity. At least one member of staff, fully trained to operate the CCTV shall be on duty at all times. All CCTV recordings shall be made available to the Responsible Authorities within 48 hours of a request”.

The applicant has also added the following conditions to the operating schedule, attached as Appendix 1:

“Litter

McDonalds were the first company in our sector to introduce litter patrols in the early 1980s. McDonalds is committed to carry out litter patrols collecting both McDonalds packaging and any other litter that had been carelessly discarded. We are happy to act on recommendations from the Environmental Health Officer should they feel that we should extend our patrol to a nearby area, as far as this is reasonably practicable.

All of McDonalds packaging displays the “Bin it” symbol to encourage our customers to deal with their waste responsibly. Further details regarding McDonalds commitment to reducing waste and litter nuisance can be found at the “Our World” section of the McDonalds website.

Noise

Where it is practicable to do so we are content to put measures in place to limit noise. All McDonalds restaurant doors are self closing, and we try to encourage our customers to be considerate to our neighbours and to limit noise both when ordering their food and on leaving the local area”.

At the start of the hearing, Counsel for the Applicant objected to the involvement of the witnesses on behalf of some of the Interested Persons on the basis that such witnesses were not mentioned at the time of the submission of the original objections.

Regulation 8 (2) of the Licensing Act 2003 (Hearings) Regulations 2005 states:

“In a case where a party wishes any other person (other than the person he intend to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request”.

The Sub-Committee having had their attention drawn to this point of law, confirmed who could speak at the meeting. Those who were allowed to speak were reminded to keep their comments in line with their original representations.

Counsel for the Applicant indicated that the application was for the provision of Late Night Refreshment submitted by a leading businessman in respect of a premises which had been operating since 8 March 2023. Counsel confirmed that a copy of the Planning Inspectorate's decision was provided in support of the application and referred to section 182 Guidance which stated that planning and licensing regimes are separate but related. He added that as the Planning Inspectorate had dismissed traffic concerns, the Sub-Committee were reminded to do the same.

Counsel stated that the Sub-Committee must make a decision based on licensing law and not on gut feelings. He referred to the Thwaites case whereby the Sub-Committee cannot rely on fear or fantasy. Counsel further stated that the weight of evidence that Sub-Committee would require to reject the application would have to be substantial as none of the Responsible Authorities had objected.

Counsel explained that he found it difficult to address the objections raised by the Interested Persons as they were merely a list and provided no context. Counsel stated that the Applicant is an experienced and recognised operator and invited the Sub-Committee to grant the application as requested.

In response to questions asked by the Sub-Committee, Counsel explained that litter picking is undertaken between sunrise and sunset and that the Applicant had met with local residents who pick litter but was unaware of the Whitley Wombles, a local litter picking residents group.

In response to questions about staff training and security, Counsel explained that every staff member had security training as per their commitment to keep staff, patrons and local residents safe. A 'staffsafe' system is in operation should any issues arise. He further explained the measures in place such as CCTV cameras, the electronic ordering stations to minimise interaction and classical music late at night to discourage patrons from spending too much time at the premises.

Counsel further explained that there were staff manuals that dealt with all manner of incidences, including how to deal with vulnerable people and young children aged 17 and under. Counsel added that staff would undertake training with the police on what things to look out for and who to report it to.

The Sub-Committee then heard representations made on and behalf of Interested Persons who had objected to the application. They presented their case which focused on the litter patrols, the contradiction of how far the litter patrols extended and the impact of litter on wildlife on the area.

They explained that the photos they had submitted as evidence were collected over a period of 13 days of business which showed litter strewn in various locations. They stated that if the late night hours were to be granted, there would be an increase in litter in the area and anti-social behaviour and noise nuisance would also increase.

Councillor R Bailey, a Cheylesmore Ward Councillor, who was permitted to speak as a witness on behalf of an objector stated that the increase in litter will have a detrimental impact on the area. He expressed disappointment that the Applicant had not made contact with the Whitley Wombles as working together would be

beneficial for the business and the community. In addition, Councillor Bailey indicated that the lighting would cause a nuisance late at night. However, Counsel for the Applicant interjected and stated that reference to light was not mentioned in the original submissions, therefore, it was not admissible.

In summing up, the Interested Persons stated that the extension of hours were wholly undesirable and not required given that there are two other McDonalds which operate 24/7 within a 15 minute drive. They invited the Sub-Committee to reject the application.

In summing up, Counsel for the Applicant indicated that under Section 182 Guidance, need and economic factors are not relevant considerations. He added that the Planning Inspectorate had adjudicated that the impact of noise, light and smell would be negligible. In respect of crime and disorder, the police did not raise any concerns. In relation to concerns over litter, Counsel referred to guidance which stated that the Applicant was not responsible for litter beyond the immediate area surrounding the premises. Furthermore, he stated that an individual who engages in anti social behaviour is accountable in his own right.

Counsel indicated that McDonalds had a commitment to environmental safeguards such that packaging is recyclable and would eventually break down.

In reaching their decision, the Sub-Committee had regard to both national guidance and the Council's own Policy. The Sub-Committee considered the application on its own merits and due consideration was given to the evidence available before them including the objections raised.

The Sub-Committee acknowledged the concerns raised about littering and noise, however, in accordance with the High Court's decision in *R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)*, the Sub-Committee attached the appropriate weight to the fact that none of the Responsible Authorities, who are to be considered experts in their individual fields, had objected to the application.

RESOLVED that the application for a Premises Licence be granted in respect of McDonalds, 275 London Road, subject to the voluntary conditions already put forward by the Applicant.

5. Any Other Business

There were no other items of business.

(Meeting closed at 1.50 pm)