

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, on **Monday, 25 March 2024 at 2:00 PM**

Members of the Sub-Committee present:

Councillor John Fisher, Councillor Colin Hedgley, Councillor Lee Reeves, Councillor Tim Wilson

Officers present: Teresa Bailey (Senior Licensing Officer), Katy Cassidy (Democratic Services Officer), Martin Clarke (Licensing Manager and Housing Lead Lawyer), Jodie Fisher (Licensing Officer), Matt Makin (Democratic Services Officer), Jemima Shaw (Lawyer)

Others present: The Applicant's Barrister, the Applicant's National Licensing Officer, two representatives from Martlesham Parish Council

1 Election of a Chair

On the proposition of Councillor Hedgley, seconded by Councillor Wilson it was

RESOLVED

That Councillor Reeves be elected as Chair of this meeting of the Sub-Committee.

2 Apologies for Absence

There were no apologies for absence.

3 Declarations of Interest

There were no declarations of interest.

4 Declarations of Lobbying and Responses to Lobbying

There were no declarations of lobbying received.

5 New Premises Licence - McDonalds Restaurant Ltd, 120 Anson Road, Martlesham Heath, Martlesham, Ipswich, Suffolk IP5 3TX

The Sub-Committee received report ES/1894 of the Senior Licensing Officer, which related to a new premises licence for McDonald's, 120 Anson Road, Martlesham Heath, Ipswich, IP5 3TX to permit late night refreshment (indoors and outdoors) Monday to Sunday 23:00 to 05:00.

The Senior Licensing Officer summarised the report and advised that a hearing was required as nine representations against the application were received, including one from Suffolk Constabulary, who were a responsible authority. The Senior Licensing Officer advised that following correspondence between Suffolk Constabulary and the applicant, the following conditions were agreed and the Police withdrew their application.

The Sub-Committee were advised of the conditions agreed between the applicant and Suffolk Constabulary as follows:

The premises licence holder, or their nominated representative or franchisee, shall, within 7 days of a written request from a Responsible Authority (including requests made by email) attend a meeting with the Responsible Authorities, including the Licensing Authority and Suffolk Constabulary, to discuss concerns relating to any anti-social behaviour thought to be linked to, or exacerbated by, the operation of the premises and to give further consideration to potential measures to prevent such behaviour.

This includes anti-social behaviour that occurs within both the licensed premises, the car park and encompasses the adjacent supermarket car park, if it can be reasonably inferred that the persons causing the anti-social behaviour are present due to the attraction of the licensed premises. These may include but are not limited to further enhancements to ANPR and CCTV camera systems, security arrangements, specific procedures for liaison with the landlord and their security provider and additional traffic calming and traffic flow management measures.

The premises licence holder shall produce and maintain, in conjunction with the landlord and operator of the adjacent supermarket car park, a procedure for liaison between staff working at the premises and security staff for the car park in order to identify and alert security to any anti-social behaviour taking place in the car park.

The premises licence holder shall document a record of all crime, disorder and anti-social behaviour incidents that occur within the premises and the car park.

The premises licence holder will work in partnership with Police and other statutory authorities to prevent crime and disorder, including anti-social behaviour, by using a range of measures to manage and mitigate concerns. Such measures may include but are not limited to: Wi-fi disconnection when required, conflict management and ASB training to defuse and manage incidents, regular patrols and monitoring outside of the premises, including the car park area, to disperse and ban individuals/groups when required.

Regular litter patrols will be carried out in the vicinity of the premises to collect both McDonald's packaging and any other litter that has been discarded. Should the Council's Environmental Protection Team suggest at a later date that the area should be extended, the premises licence holder will act upon the recommendation as far as reasonable practicable after a risk assessment of the area.

The Sub-Committee were advised that these conditions were sent to the remaining eight objectors and a further two had since withdrawn, leaving six objectors at the time of the Sub-Committee. The Sub-Committee was requested to determine the application by either granting the application subject to any mandatory conditions and to those consistent with the application, granting the application subject to the same conditions but modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, or by rejecting the application. The Senior Licensing Officer advised that the Sub-Committee must state its reasons when announcing its decision.

The Chair invited the applicant's barrister, Mr Charalambides, to address the Sub-Committee. Mr Charalambides stated that the focus of the Sub-Committee was for the licensable activity of late night refreshment from 23:00 to 05:00. Mr Charalambides referred to the promotion of the four licensing objectives, promoting the prevention of crime and disorder, promoting the prevention of public nuisance, promoting public safety and protecting children from harm, noting therefore that many of the representations made were not relevant to this discussion. Mr Charalambides stated that the Council had already considered the traffic/amenity impact/management of other car parks through the planning process and granted unrestricted planning permission for a restaurant and associated parking. This therefore indicated that the Council accepted that this site would be operational for twenty four hours a day.

Mr Charalambides told the Committee that the responsible authorities had reviewed the application and had listed conditions at 4.2 of the report that they were satisfied would promote the prevention of crime and disorder. This included working with responsible authorities, observation of the car park area, liaising with the neighbouring car park area, logging crime and disorder and working in partnership. Mr Charalambides referred to the operating schedule as covering many of those features, adding McDonalds recognised their responsibility for their facility and its impact. They had CCTV and this would fully cover all internal and external areas and included facial recognition software.

The store would also be fitted with a staff safe system which meant that a member of staff could activate a system to relay information to a remote operator who could activate the loudspeaker in the restaurant to call out behaviour and manage conflict. McDonalds staff had extensive training to manage conflict and behaviour in the restaurant, and there were a variety of systems in place to move people along, such as playing classical music or turning off the WIFI which reduced the time people would spend on the premises. Mr Charalambides added that the modern stores operated via screen based orders or telephone orders which promoted less difficult social interaction at the counter.

Mr Charalambides referred to concerns that had been raised regarding littering around the premises. It was recognised that quick service restaurants created litter from

people leaving the premises, and whilst McDonalds were concerned about this, it was clear in the guidance issued under Section 182 of the Licensing Act 2003 that antisocial behaviour beyond the premises was the responsibility of the individual. It was therefore not appropriate to ask a business to control people beyond their premises, however McDonalds did not like litter and had worked with the Department for Environment since 1980s to promote ant-litter campaigns. McDonalds have regular litter picks around the areas they operated in, and a member of staff would be employed to litter pick in the area from sunrise to sunset. The area covered by these litter picks reflected feedback from local communities and any particular littering issues. McDonalds had also provided additional bins in the local area, and sponsored local litter picks working closely with the local community and schools. McDonalds were the only national operator who behaved in this way.

Referring to the criticism of the car parks, Mr Charalambides confirmed that the McDonalds carpark would be monitored by CCTV 24/7 and have good lighting, adding that when it was known that the premises was under surveillance, anti social behaviour would be reduced. The comments from the Police placed confidence on McDonalds and as an operator with a night-time economy presence they were a responsible operative, having never been subject to review or criticism.

Mr Charalambides concluded that the recommendation was to commend the application and that it was granted as requested with the amendments made by the policy authority.

Councillor Hedgley asked if there were any restrictions to the opening of the facilities during the night time hours. Mr Charalambides advised this particular premises would be managed by an experienced franchisee who ran 18 stores. The risk assessment would decide what would be opened or closed, adding if the upstairs was closed the toilets would remain open and the premises was covered by CCTV. Mr Charalambides confirmed there was not reduced staffing at night, but a full complement including cleaning staff. This was easier for staff as it made shift swap overs easier. It also reduced the need to power down and power up the equipment, and for better cleaning of the store. Keeping the restaurant open with full lighting and staffing was also generally safer and prevented loitering in the space, although this was assessed regularly with risk assessments and revised if necessary. Mr Charalambides confirmed that the Police would have access to CCTV and it would be retained in line with policy.

Councillor Wilson sought clarification on the process for determining anti-social behaviour in the car parks at night. Mr Charalambides confirmed that feedback from CCTV and staff patrolling the areas would determine what required intervention, and an operator would review the risk assessment dependent on the peak times and issues that arise.

Councillor Reeves asked how many staff would be on duty during night time hours. It was clarified that the minimum would be 5, 1 manager and 4 team members. This would be reviewed according to the business needs. Mr Charalambides confirmed that no one under 18 would be working at night. It was clarified that the application referring to indoor and outdoor refreshments referred to on and off food sales and not to outdoor tables.

The Senior Licensing Officer noted that the car park was a shared car park, Mr Charalambides confirmed that they would share the car park and apply their measures to the whole area and would work collaboratively with the landlord to look at ANPR, security, restricting access, bollards etc as and when issues arose.

The Objector, Councillor Erwin, asked how the vicinity that was affected by the client's activities would be defined. Mr Charalambides confirmed that the section 182 guidance referred to the area in the immediate vicinity of premises and therefore they looked at the premises, car parking, surrounding streets. Mr Charalambides confirmed that they were not required to take responsibility for any of the neighbouring streets, however following risk assessment and to promote good neighbourliness, the area would be reviewed and litter picks deployed accordingly. Mr Charalambides noted that any questions could be fed back to the store franchisee and management. Councillor Erwin, noted that they would like to have a boundary added to the litter picking police condition.

In response to a question regarding the number of car parking spaces required during the day, it was noted that it wasn't relevant to the hearing as it only concerned the period between 23:00 and 05:00.

In response to a question from the Legal Advisor regarding McDonalds control over the franchisee, Mr Charalambides confirmed that the franchisee would be under review from the managers, area managers and audit authorities, adding that this particular franchisee was very experienced.

Mr Charalambides confirmed the litter picks were scheduled collaboratively with local communities, ward councillors and Environmental Protection looking at local parks or open areas.

The Chair invited the Objector to make their representation. Councillor Erwin acknowledged the conditions that the police had submitted and noted that they now only had one concern which was regarding Martlesham Common, a nature reserve, picnic area and car park which was well managed by Martlesham Parish Council. There was concern that the area could become vulnerable to disorder, litter and public nuisance by McDonalds' clients, the objectors asked if the litter picking could be extended to the area and if the police conditions could be extended to protect the common.

Councillor Wilson clarified that the Objector was seeking McDonalds to take responsibility for the nature reserve and the Parish Council confirmed this was the case.

The objector confirmed for Mr Charambalides that the car park was gated with CCTV and a barrier.

The Legal Advisor advised that a condition could be added that should the Environmental Protection Team suggest the litter pick area needs to be extended, the applicant would act on it. Mr Charalambides agreed that McDonalds would act on this advise where it was reasonably practicable.

The Chair invited all parties to sum up.

The Senior Licensing officer referred to the Parish Council's comment regarding changing of police conditions, noting that what was already agreed could not be altered and would have to be a modification or a separate condition. In addition, the Senior Licensing Officer drew the Sub-Committee's attention to paragraph 1.16 of the Section 182 guidance which stated that License holders cannot seek to manage the behaviour of customers once they are beyond the direct management of the license holder and their staff.

The applicant, Mr Charambalides summed up, noting that the Parish Council had confirmed they had CCTV and the car park was closed for the hours the licence was concerned with. With reference to the Section 182 guidance and paragraphs 1.16 and 1.82 Mr Charambalides stated that McDonalds was keen to provide good neighbourliness and could provide and sponsor additional resources such as gates, bins and signage adding that they would be very happy to work with local conservation groups to provide litter picking and suggested that contact details were exchanged.

The Sub-Committee adjourned with the Legal Advisor and Democratic Services Officer to consider their decision. On their return the Chair read the following decision notice:

DECISION NOTICE

McDonald's Restaurant Ltd (the applicant) has applied for a new premises licence at McDonald's 120 Anson Road, Martlesham Heath, Ipswich, IP5 3TX to permit late-night refreshment (indoors and outdoors) Monday to Sunday 23:00 to 05:00.

The Sub-Committee heard from the Licensing Officer, who summarised the report and confirmed that the hearing had been held as nine representations against the application had been received from other persons. Although representations were received from responsible authorities including the police, these were withdrawn following negotiations.

The Sub-Committee then heard from the applicant's representative, who indicated that the site had been granted planning permission for twenty-four-hour operation. The four licensing objectives were narrower than the considerations for planning, and much of the representations that had been made were not relevant to the licensing objectives, for example the issue of traffic and amenity were dealt with by the granting of planning permission. The operating schedule of the restaurant contained a commitment to work with the local community to ensure the safe operation of the restaurant. In relation to good neighbourliness, McDonalds would work with environmental protection to ensure that there was a litter pick in the area subject to a risk assessment and insurance. In relation to prevention of crime and disorder the members of staff would be provided with Staffsafe devices and there would be safety training to ensure that safe working methods were operated. In addition, there would be CCTV with ANPR in place. Although McDonalds applied for the licence, the franchise would be handed over to an operator who currently operates 18 restaurants of which 10 were open 24 hours.

The representative from McDonalds was asked to confirm how they would ensure that the shared car park was monitored, and McDonalds indicated that they would actively monitor any part that was covered by their lease. When asked about what controls they have over their franchisees, McDonalds indicated that their franchisees are expected to work with their area managers to ensure conditions are complied with, and that any licence is always subject to review. McDonalds also indicated that they could not think of a situation where they would not provide CCTV, although they would only retain CCTV for 1 month as is standard practice.

The objector asked the applicant whether they would take responsibility for the cleanliness of the common and the car park in the common and McDonalds indicated that they were not responsible for areas outside of their immediate vicinity although they would undertake litter picking in areas reasonably requested by Environmental Protection.

The objectors then put forward their case indicating that their main concern was regarding litter and behaviour in the common and the common car park. McDonalds asked if there was a barrier or bins and the objectors answered the affirmative regarding a barrier which was shut from 10pm at night.

The decision of the Sub-Committee

The Sub-Committee, having considered the application, the Licensing Officer's report and the representations received from the applicant and other objectors has decided to grant the licence as applied for subject to the amendments agreed between the applicant and the responsible authorities.

Reasons for decision

In arriving at this decision, the Sub-Committee has taken into consideration the representations of both the applicant and objector as well as the Licensing Officer's report. The Sub-Committee also considered the Council's own licensing guidance and statement of licensing policy, as well as the Statutory Section 182 guidance, and Human Rights Act 1998.

The Sub-Committee notes that paragraph 9.12 of the Section 182 statutory guidance states that the responsible authorities are experts in their respective fields and great weight should be placed on their representations or lack of. In this case the Sub-Committee is reassured by the conditions agreed with the responsible authorities and is satisfied that these conditions are capable of promoting the licensing objectives in particular prevention of public nuisance and prevention of crime and disorder.

In relation to the litter. Under paragraphs 2.27 and 1.16 of the Section 182 guidance it is made clear that a licensee is not responsible for the activities of their customers outside of their immediate vicinity. The Sub-Committee notes that McDonalds have agreed to carry out litter picks in the vicinity of the premises and should the Council's Environmental Protection team suggest at a later date that the area should be extended the premises licence holder will act upon the recommendation as far as reasonably practicable after a risk assessment of the area. The Sub-Committee considers that the Environmental Protection team are experts in what areas would

require a litter pick and therefore consider that this condition is capable of promoting the licensing objectives in particular prevention of public nuisance.

The Sub-Committee has read and notes the written objections from the objectors who did not attend and has considered them along with the representations from the objector who attended in person.

The Sub-Committee notes that there was no criticism of the operating schedule and acknowledged that McDonalds are a good operator and have a good record of compliance. The Sub-Committee also notes comments by the McDonalds representative that they have never had a review of a licence. Whilst McDonalds will not be operating this site themselves, the franchisee, who has a good track record, will be supervised and supported by McDonalds. Should there be any issues with compliance with this licence the Sub-Committee notes that there are internal measures to address this. In any event, if there are major problems with licensable activities, the licence can be reviewed and revoked.

The Sub-Committee is therefore satisfied that that license can be granted as applied for subject to the conditions agreed with the responsible authorities.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

Date: 25 March 2024

6 There are no Exempt or Confidential items for this Agenda.

The meeting concluded at 4:12 PM

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Chair