

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held via Zoom, on **Tuesday, 20 October 2020** at **10.30am**

Members of the Sub-Committee present:

Councillor Edward Back, Councillor Linda Coulam, Councillor John Fisher, Councillor Keith Robinson

Other Members present:

Councillor Tracey Green

Officers present: Katherine Abbott (Democratic Services Officer), Sarah Carter (Democratic Services Officer), Martin Clarke (Housing Projects Lawyer), Sarah Davis (Democratic Services Officer), Leonie Hout (Licensing Officer)

Others present: Kelly Nichols (Morrisons National Licensing Manager), Richard Taylor (Solicitor)

1 Introductions

The Democratic Services Officer opened the meeting and invited the members of the Sub-Committee to confirm their attendance.

2 Election of a Chairman

RESOLVED

That Councillor Fisher be elected as Chairman for this meeting.

3 Apologies for Absence

There were no apologies for absence.

4 Declarations of Interest

There were no declarations of interest.

5 Declarations of Lobbying and Responses to Lobbying

There were no declarations of lobbying.

6 Application for a new Premises Licence - Morrison's Filling Station, Felixstowe

The Sub-Committee received report ES/0534 of the Cabinet Member with responsibility for Community Health. The Chairman invited the Licensing Officer to summarise the report.

The Licensing Officer confirmed that a new premises licence had been applied for the sale of alcohol and late night refreshments for consumption off the premises at Morrison's Filling Station, Felixstowe. The hearing was required as three relevant representations against the application had been received. These representations were appended to the report and had been shared with the relevant parties prior to the meeting.

The Sub-Committee was advised that it was required to make its decision taking into account the Licensing Act 2003, the Council's Statement of Licensing Policy, and the Human Rights Act 1998, and if it had reason to depart from this it was asked to give full reasons for doing so. The Sub-Committee was asked to determine this application by either granting the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003, granting the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considered appropriate for the promotion of the licensing objectives (for example, by excluding a licensable activity or restricting the hours when a licensable activity can take place) and any condition which must be included in the licence in accordance with the Licensing Act 2003, or rejecting the application.

In the absence of any questions to the Licensing Officer from the Sub-Committee, the Chairman invited the applicant's solicitor Mr Taylor to ask her any questions. Given the nature of the grounds of objection within the representations, Mr Taylor queried if any response had been received from Environmental Health or the Police. The Licensing Officer confirmed that no response or objection had been received from either. Mr Taylor sought further clarification as to whether the Police had been notified and the Licensing Officer confirmed that the representations had been sent to them.

There being no further questions to the Licensing Officer, the Chairman invited Mr Taylor, the applicant's solicitor, to address the Sub-Committee. Mr Taylor referred to the application for a premises licence, at appendix A to the report, and stated that they wanted permission to sell alcohol 24 hours per day and refreshments from 11pm to 5am. He clarified that the filling station could open 24 hours per day now and sell everything other than alcohol and hot drinks which was what the request to provide refreshments was for, particularly coffee. He informed the Licensing Sub-Committee that Morrisons had over 600 licences issued under the Licensing Act 2003 and had never faced a review or prosecution arising out of any difficulties from alcohol sales. He added that there was no evidence of any anti-social behaviour at any of the filling stations and no suggestion there would be at this one if the licence was granted. He explained that since covid, shoppers wanted to be in an environment they felt comfortable with and Morrisons wanted to be able to sell wine and beverages to give greater flexibility and choice to customers within a socially distanced

environment. He explained that CCTV would be made available, the counter was screened and would be double manned with panic buttons having a direct link to the main store. All the staff selling alcohol would have a personal licence. They would also receive regular training to operate +25 age prompts to check the age of customers. In addition, there would be independent test purchasers to test staff and if they failed to challenge under 25s they would potentially face disciplinary action. He added that staff would also be instructed not to sell strong white cider to young people and street drinkers. He stressed that there were strict standards across the Morrisons estate and no problems had been encountered elsewhere. In relation to the objections, he pointed out that none had been received from the Responsible Authorities.

The Chairman invited questions from the Sub-Committee to Mr Taylor and clarification was sought on the hours of business at the moment. Mr Taylor responded that the filling station was currently open from 6am to 10.30pm Monday to Saturday and 8am to 10pm Sundays and the aim was to trade longer in store and at the filling station in the run up to Christmas - he added the store was open 6am to 12am. He clarified that he doubted the demand was there for 24 hour trading but they wanted to have the flexibility to do so if there was.

There being no further questions to Mr Taylor from the Sub-Committee or Legal Advisor, the Chairman invited Councillor Green, on behalf of Felixstowe Town Council, to ask any questions. Councillor Green queried how the Challenge 25 scheme worked. Mr Taylor responded that it was the Morrisons Age Verification Scheme which required any person who appeared to be under 25 to produce prescribed photo evidence that they were over 18 so if a person scanned an item they had to go through a process that the staff were trained in. If the person could not provide the evidence they were not sold the product. Ms Nicholls explained that if a member of staff felt uncomfortable then the store manager could go over to support them even if it was in the early hours of the morning. Mr Taylor explained that, looking at CCTV footage, it was clear that the incidence of young people trying to buy alcohol was not high. Ms Nicholls stated that Morrisons always engaged with the local community and the Police/local schemes etc and any residents who had problems could call the store and it would be sorted swiftly.

There being no further questions to Mr Taylor, the Chairman invited Councillor Green, on behalf of Felixstowe Town Council, who objected to the application, to address the Sub-Committee. Councillor Green clarified that the objection was to the sale of alcohol and not the late night refreshments, especially given the setting of the store and filling station and the fact that it was quite close to housing which had pockets of high social deprivation. She stated that she was slightly reassured having heard about Morrison's Challenge 25 scheme but suggested that, if the Sub-Committee was minded to approve the application, the store review the bins on the whole site and encourage recycling to encourage people to keep it litter free. She pointed out that the pub opposite closed at 10 so she was not sure it was appropriate that people could then go over the road to the filling station to buy alcohol as this could lead to poor relationships between the store and the pub manager/town. She expressed concern again about the accessibility of alcohol in an area of high deprivation and concluded that there were already a number of off licences in proximity to the store which might be affected adversely if the application was approved and she wanted to support small businesses.

There being no questions to Councillor Green, the Chairman invited Mr Taylor to sum up. Mr Taylor reiterated that the filling station already had permission to open 24 hours per day and that no representations had been received from the Responsible Authorities who the Home office guidance said were the experts, so in his view there were no good reasons for restricting the hours for the sale of alcohol or refreshments. He stressed Morrisons had a proven track record and no complaints had been received about this store. He acknowledged Councillor Green's concerns but pointed out that if there were any issues contact could be made with the store direct. He added that extending the hours provided shoppers with flexibility to shop at different times that suited them and it helped with social distancing.

The Chairman invited Councillor Green to sum up. She clarified that her concern was not about people drinking on the forecourt but about them drink driving to other places and also people walking to the filling station and loitering on the forecourt when buying off sales.

The Sub-Committee adjourned, with the Legal Advisor and the Democratic Services Officer, to make its decision. On its return, the Chairman advised that the Sub-Committee had resolved to grant the applicant a Premises Licence subject to the conditions proposed. The Chairman informed all present that a full decision notice would be formulated and distributed to all parties via email within the statutory timescale of five working days.

The decision notice, which was distributed on 20 October 2020, was as follows: "WM Morrison Supermarkets PLC has applied for a premises licence at a convenience store located within a petrol filling station at Grange Farm Avenue, Felixstowe, IP11 2XD, which would allow the sale of alcohol and late night refreshments for consumption off the premises.

This Sub-Committee has been held as several representations were received against the application.

In arriving at this decision, the Sub-Committee has taken into consideration the oral and written representations submitted by all parties, the guidance under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. The Licensing Officer's report also drew the Sub-Committee's attention to its obligations under the Human Rights Act 1998.

The Sub-Committee heard from the Council's Licensing Officer, Ms Hault, and, on behalf of the applicant, from Mr Taylor, Gosschalks Solicitors and Ms Nichols, Morrison's National Licensing Manager. From those who made relevant representations, the Sub-Committee received verbal representations from Councillor Green, Ward Councillor. The Sub-Committee also considered the written representations submitted.

The Sub-Committee noted that no representations had been received from any responsible authorities.

All parties were permitted to ask questions of their counterparts throughout the Hearing.

The Applicant's submission

The applicant's representative indicated that they were a long established retailer with over 500 stores and 100 filling stations across the country. Since the Licensing Act 2003 came into force, they had never faced a review hearing or prosecution. In order to meet the licensing objectives, the applicant indicated that a modern CCTV system was installed with recordings stored for a minimum of 28 days and available to relevant authorities on request. They implement a robust Challenge 25 scheme with till prompts, regular staff training and independent test purchases. In addition, staff at the filling station who sell alcohol are required by the applicant to hold a Personal Licence. There would also be at least two staff members on duty in the filling station at all times. Staff also had support available from a Night Manager at the main store even if that store was closed to the public.

The Objectors' submissions

The Sub-Committee heard from Councillor Green who clarified that she had no objections to the sale of late night refreshments but was concerned at the sale of alcohol. She described the premises and businesses that surrounded the filling station and the high level of social deprivation in the nearby area. She detailed her fears over the impact that the sale of alcohol might have on the local area including increased anti-social behaviour, encouraging drink/driving, the risk to children from any alcohol dependent parents and COVID related issues such as people leaving the nearby pub at the 10pm curfew and immediately going to the filling station to buy alcohol.

All parties were given the opportunity to sum up.

Sub-Committee's decision

After considering the application and the representations, both written and oral, the Sub-Committee is satisfied that the applicant has demonstrated that it is able to promote the four licensing objectives and that the conditions imposed in the application are sufficient to ensure that the licensing objectives will be met.

In arriving at our decision, we have given due consideration to all the representations made. The Sub-Committee also noted that the responsible authorities (specifically the Police and Environmental Health) had not objected to this application.

The Licensing Sub-Committee notes that if there are any incidents that cause the Licensing Authority concern that the licensing objectives are no longer being met, the Licence can be reviewed.

Therefore, the Sub-Committee has decided to grant the application for a premises licence for the sale of late night refreshments from 11pm-5am and alcohol 24 hours both of which to run seven days per week. This is subject to the conditions proposed by the applicant in their application.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving this notice of the decision. Any person can make an application to the Licensing Authority for a review of the premises licence if they believe the licensing objectives have been compromised by the applicant at any time.

Date: 20 October 2020"

The meeting concluded at 12.57pm.

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Chairman