

LICENSING SUB-COMMITTEE A

A meeting of the Licensing Sub-Committee A was held on 8 November 2019.

PRESENT: Councillors R Arundale (Chair), T Higgins and J A Walker.

**PRESENT AS
OBSERVERS:** S Bonner - Democratic Services
J Cain - Local Democracy Reporter

**ALSO IN
ATTENDANCE:** On behalf of the applicant:
A Henderson - Business Manager, McDonalds, Coulby Newham
G Larkin - Operations Consultant
F Humphries - Legal Counsel

On behalf of those making representations:
Councillor S Walker - Coulby Newham Ward Councillor

OFFICERS: C Cunningham, J Dixon and S Morris.

DECLARATIONS OF INTERESTS

The Chair advised those present that a member of his family lived in the vicinity of the premises but had confirmed that he had no issue with the application.

Both parties were asked whether they had any objections to the Chair taking part in the meeting. It was confirmed that there were no objections.

19/2 **LICENSING ACT 2003: APPLICATION TO VARY PREMISES LICENCE - MCDONALDS RESTAURANTS LTD, PARKWAY VILLAGE, DALBY WAY, COULBY NEWHAM, MIDDLESBROUGH, TS8 0FA. REF NO: OL/19/01**

A report of the Director of Culture, Communities and Communications had been circulated outlining an application to Vary the Premises Licence in respect of McDonalds, Parkway Village, Dalby Way, Coulby Newham, Middlesbrough, TS8 0FA, Ref: OL/19/01.

Summary of Current Licensable Activities

Provision of Late Night Refreshment: Monday to Sunday - 11.00pm to 12.00 midnight.

Summary of Proposed Licensable Activities

To extend the provision of Late Night Refreshment to: Monday to Sunday - 12.00 midnight to 5.00am.

A copy of the application and accompanying operating schedule were attached at Appendix 1.

The Chair introduced those present and outlined the procedure to be followed at the meeting.

It was confirmed that all parties had received a copy of the Regulation 6 Notice and copy of the report and accompanying documents, in accordance with the Licensing (Hearings) Regulations 2005.

Details of the Application

The Principal Licensing Officer presented the report outlining the application to Vary the Premises Licence in respect of McDonalds, Parkway Village, Dalby Way, Coulby Newham, Middlesbrough, TS8 0FA. A copy of the application was advertised in the Evening Gazette on 18 September 2019, as required by the Licensing Act 2003.

The premises operated as a fast food outlet located at the Parkway Village amongst a mix of other commercial and licensed premises. A large residential estate was located opposite the

premises, across Stainton Way, which was one of the main thoroughfares through Coulby Newham. A location map was attached at Appendix 2.

Representations

On 14 October 2019 a representation was received from Coulby Newham Community Council objecting to the application predominantly on the grounds of the prevention of crime and disorder and prevention of public nuisance. The objection also referenced health concerns. A copy was attached at Appendix 3.

Cleveland Police raised concerns in response to the application regarding the applicant's operating schedule in relation to the CCTV policy. Following discussions between the applicant and Cleveland Police, the applicant agreed to amend the operating schedule to include the following condition:-

"McDonalds operate a digital motion activated CCTV system where images are retained on a hard-drive system for 31 days."

On the basis of the above amendment, Cleveland Police had no objections to the application.

The submitted report also referred to the relevant sections of the Council's Licensing Policy and relevant sections of the Government Guidance to the Licensing Act 2003.

Applicant in Attendance

On behalf of the applicant, A Henderson, Business Manager, McDonalds, Coulby Newham; G Larkin, Operations Consultant and F Humphries, Legal Counsel, were in attendance.

The applicant's legal representative presented the case on behalf applicant in support of the application and addressed the issues within the representation.

Members of the Committee, those making representations and the Council's legal representative asked questions of the applicant which were responded to accordingly.

Those Making Representations

Councillor S Walker, Coulby Newham Ward Councillor, was in attendance at the meeting on behalf of Coulby Newham Community Council and presented the case in objection to the application.

Members of the Committee and the Council's legal representative asked questions of the objector which were responded to accordingly.

Summing Up

Those Making Representations

Councillor S Walker summed up that the main concern of Coulby Newham Community Council was that there would be increased litter around the premises and around Coulby Newham in general if the premises remained open for longer hours.

Applicant

The applicant's legal representative summed up by stating that, in relation to concerns regarding litter, the premises would be open to anyone in the community wishing to approach them with any solutions or initiatives and the applicant would be more than willing to help. It was reiterated that the premises went over and above in terms of keeping the area clean but unfortunately some people were not willing to put their rubbish into the bins provided.

In terms of crime and disorder and anti-social behaviour, there was no evidence of existing problems in this location or at the subject premises and, in this case, the current position and

evidence showed that the variation to the licence should be granted as applied for. The applicant was willing to work with anyone who approached them in relation to any issues. The applicant provided professional training to its staff to ensure that problems did not occur.

It was confirmed that there were no further questions and all interested parties other than the Officers of Legal and Democratic Services, withdrew whilst the Committee determined the application. The Council's legal representative stated that as it was likely for the debate and decision-making process to take some time, in accordance with the Regulations, the full decision and reasons would be issued to the parties within five working days.

The Chair advised all parties of the Right of Appeal to the Magistrates Court within 21 days of the decision.

DECISION

ORDERED that the application to Vary the Premises Licence in respect of McDonalds, Parkway Village, Dalby Way, Coulby Newham, Middlesbrough, TS8 0FA, Ref: OL/19/01, be granted subject to a modification of the condition in the operating schedule in relation to CCTV to include that the Premises must operate a digital motion activated CCTV system where images were retained on a hard-drive system for 31 days.

Considerations

1. The Committee considered an application to vary the Premises Licence, under Section 34 of the Licensing Act 2003, ("the Act") to provide late night refreshment at McDonalds, Parkway Village, Dalby Way, Coulby Newham, Middlesbrough, TS8 0FA, ("the Premises") between the hours of midnight and 5.00am daily.
2. A representation had been received against the grant of the application to vary by the Ward Councillor for the area on behalf of Coulby Newham Community Council as an interested party.
3. The Committee noted under Section 35 of the Act that it must hold a hearing and, having regard to the representations, take such steps (if any) as it considered appropriate for the promotion of the licensing objectives. The steps were to modify the conditions of the Premises Licence or to reject the whole or part of the application to vary the Premises Licence.
4. The Representation was concerned with the promotion of the prevention of public nuisance, crime and disorder and the protection of children from harm licensing objectives.
5. The Committee considered: the application on its own merits; the report and appendices; the relevant representations made at the hearing by the applicant and the Ward Councillor; the Act; the Council's Statement of Licensing Policy ("the Policy") and Guidance under Section 182 of the Act ("the Guidance").

Decision

1. The Committee decided it was appropriate to grant the application to vary the Premises Licence subject to a modification of the condition in the operating schedule in relation to CCTV to include that the Premises operate a digital motion activated CCTV system where images were retained on a hard drive system for 31 days.

Reasons

1. The representation objecting to the application to vary was partly based upon anti-social behaviour in Coulby Newham Ward generally and concern over the area generally where the premises was situated. No specific evidence was available to the Committee about the levels of anti-social behaviour and it was accepted that there had been no issues at the Premises or in the vicinity of the Premises. The applicant confirmed that youths did not congregate near to the premises, and in busier times mainly between 7pm and 9pm on Thursday, Fridays and Saturdays, Security Provision had been in force. It confirmed that later on in the evening there were no

- issues. In addition the Committee considered the applicant's representations, its operating schedule and the systems and security it had in place would meet any concerns and would uphold the objective of the promotion of the prevention of crime and disorder.
2. The representation was also concerned with litter, however, the applicant confirmed that its employees carried out a litter pick each morning covering a large area including areas away from the premises. It carried out litter clearing approximately every half an hour specifically around the vicinity of the premises. It had numerous bins around the premises for rubbish to be disposed of and its packaging encouraged customers to bin the rubbish. Litter found some distance from the premises must be the responsibility of the individuals who were littering the area. The Committee considered that the applicant's representations and its operating schedule would uphold the objective of prevention of public nuisance of litter.
 3. The representation was concerned with increased noise levels, however, the Committee considered that the premises was in a commercial type area. It was near to residential houses but they were screened by a main road and shrubbery. The applicant confirmed there had been no complaints regarding noise in relation to its current operation which continued until midnight. The Committee was also satisfied that the systems in place could deal with any potential issues.
 4. The representation concerned health issues generally in relation to increased availability of fast food. As this issue was not a licensing objective it could not be considered as relevant by the Committee.
 5. Concern was also raised about the risk to children and child exploitation at late night takeaways. The applicant confirmed that children did not generally come to the premises unaccompanied later at night and did not anticipate a problem but had systems in place for the protection of children from harm and CSE. The Committee considered that the Policy stated it considered Licence holders to be responsible for ensuring their staff were fully aware of their responsibilities regarding protecting and safeguarding children who used their premises and aware of where and to whom to report concerns. The Committee, therefore, advised that the Premises Licence Holder implemented, as part of its internal training, the requirements set out in Part 8 of the Policy to all staff.
 6. In consideration of the above reasons the Committee decided to grant the application to vary, subject to the above amendment to the CCTV condition.