

LICENSING SUB-COMMITTEE HEARINGS

17 JANUARY 2014

Present :- Councillor Nick Cope (Chairman)
Councillors Julia Havis and Brian Jarvis

1. Appointment of Chairman

RESOLVED that Councillor Cope be appointed Chairman

2. Declarations of Interest

There were no declarations of interest.

3. Minutes

The minutes of the meetings held on 18 and 21 October were confirmed as correct records.

4. Applications under the Licensing Act 2003

The Head of Professional Services submitted a report in relation to the following application for determination by the Sub-Committee, in accordance with the provisions of the Licensing Act 2003.

• **McDonalds, Tollgate Centre, Tollgate West, Stanway**

The Sub-Committee considered an application in respect of McDonalds, Tollgate Centre, Tollgate West, Stanway to permit –

- The provision of late night refreshment on and off the premises for the hours- 23.00 to 05.00 Mondays to Sundays inclusive
- The premises to be open to the public for the hours – 05.00 to 05.00 Mondays to Sundays inclusive

In Attendance

On behalf of Applicant: Annabel Graham – Paul, Barrister
Craig Newnes, Franchisee

Objector: Clive Swift on behalf of Stanway Parish Council

Licensing Authority: Christopher Samuel, Legal Services
Steve Swain, Enforcement Officer
Amanda Chidgey, Democratic Services Manager
Jonathan Baker, Democratic Services Officer

Steve Swain gave a brief summary of the application. Representations had been received from Stanway Parish Council who expressed concern that, in the event that permission was granted, existing problems of public nuisance and anti social behaviour in the area would be exacerbated.

Annabel Graham-Paul, in presenting the application, explained that the premises were situated in a retail park, not in close proximity to residential premises. There was no intention currently to signpost the restaurant from the A12, however, a large Sainsbury store was located a short drive away at which a number of staff were currently working night shifts and there were a number of other night workers known to be in the locality. She referred to the planning permission which had been granted in February 2012 which provided for 24/7 hours of operation and which included conditions relating to:

- A litter management plan
- Cycle parking and designated car parking for users of the McDonalds restaurant
- Agreed hours of delivery

Ms Graham-Paul also confirmed that no representations had been received from the responsible authorities and there were no known complaints to the Police associated with the restaurant regarding anti social behaviour. The Youth Garden, referred to in the Parish Council's representations was located some distance from the restaurant and did not have any known connection with activity at the restaurant.

Craig Newnes, in supporting the application explained his long background working at McDonalds and his previous experience in Essex in relation to 24 hours of operation. He had moved to Frinton with his family and had relocated his work to the Colchester area. He was very keen to support the local community having sponsored a number of local youth football teams and been involved with the organisation of Colchester Carnival. He wished to reassure the Committee in terms of his track record and was of the view that the excellent CCTV and lighting provision at the restaurant, together with the security training provision for all staff members, would ensure that the operation could be run successfully. He confirmed that he had contacted the Parish Council in order to build a working relationship with them and he was willing to meet with them in the future.

Clive Swift addressed the Committee in respect of the Parish Council's representation confirming that these were speculative but were based on the concerns of local residents in terms of preventing crime and disorder and potential public nuisance. The Youth Garden had been a cause of complaints of anti social behaviour in the past and he was of the view that users of the Garden may use the restaurant facilities and congregate at the Garden late at night. He considered that traffic in the vicinity may lead to anti social use of the road network, whilst problems of litter would potentially become worse.

RESOLVED to permit:-

- The provision of late night refreshment on and off the premises for the hours- 23.00 to 05.00 Mondays to Sundays inclusive
- The premises to be open to the public for the following hours – 05.00 to 05.00 Mondays to Sundays inclusive

Subject to the Conditions set out in the Operating Schedule.

Reasons for the Determination

In arriving at the decision the Sub-Committee considered each point very carefully. It noted the representation and evidence presented by all parties including the applicant and other parties under the Licensing Act 2003 and gave consideration to its own Policy.

It was noted that a number of the representations presented by the Parish Council were not matters within the Sub-Committee's remit, in particular in relation to the licensing objective of public safety concerning traffic matters.

The Sub-Committee also noted the existence of the review procedure under the Licensing Act 2003 and the legislation available to Environmental Control in the case of noise nuisance and further taking into account the nature of the premises and proposed operating schedule it was not felt the proposals compromised any of the four licensing objectives.

All parties were reminded that there was a right to request a review if problems occurred once the new licence was in operation. The Sub Committee also wished to encourage all parties to maintain a constructive dialogue.