

LICENSING SUB-COMMITTEE

Tuesday, 24 February, 2009 at 10.00 a.m.

Conference Room at the Council House, Walsall

Present

Councillor P. Hughes
Councillor Tweddle
Councillor Wilkes (Chairman)

Appointment of Chairman

Resolved

That Councillor Wilkes be appointed Chairman of the Sub-Committee for this meeting only.

Councillor Wilkes in the Chair

Welcome

The Chairman extended a welcome to all persons present at the Sub-Committee which had been established under the Licensing Act, 2003.

Apologies

There were no apologies submitted for non-attendance.

Declarations of Interest

There were no declarations of interest.

Licensing Hearing

Application for a Premises Licence Review under Section 51 of the Licensing Act, 2003 – McDonalds Restaurants Limited, Broadwalk Retail Park, Bescot Crescent, Walsall, WS1 4SB

The report of the Head of Public Protection was submitted:-

(see annexed)

The following persons were present:-

For the applicant:-

Mr. F. McElroy
Mr. A. Bailey

For the objectors:-

PC Brian Doyle

Also present were:-

Mr Steven Knapper – Principal Licensing Officer, Walsall MBC
Mr David Watson – Legal Services, Walsall MBC
Mr Paul Wilde – Clerk to the Sub-Committee

Councillor Wilkes stated that this was a continuation of the Licensing Hearing deferred on 10 February, 2009 and related to a premises licence review under section 51 of the Licensing Act 2003.

Steven Knapper, Principal Licensing Officer, enlarged upon the report and confirmed that the application related to a premises licence review in respect of McDonalds Restaurants Ltd, Broadwalk Retail Park, Bescot Crescent, Walsall. The application had been made by the Chief Constable of the West Midlands. He referred to the premises licence which allowed recorded music all days between 0630 and 0200 hours and late night refreshment all days between 2300 and 0200 hours. Additional conditions had been agreed with the Police prior to the granting of the licence. (annex 3 to appendix 1 refers). The review application was necessary because the licence holder Mr. McElroy, had not complied with the conditions attached to the licence. No other representations had been made.

There were no questions for Mr. Knapper from the applicant or Members.

PC Doyle handed a copy of a witness statement dated 6/2/09 and emails sent on 26/11/08 to persons present at the meeting:-

(see annexed)

He reported that the premises had been licensed under the Licensing Act, 2003 on 9 January, 2008 with operating hours of 0630 to 0200 hours on all days. Recorded music was permitted between the hours of 0630 and 0200 hours all days and late night refreshment permitted between 2300 and 0200 hours by means of a drive-thru facility only. A burglar alarm was to be fitted and maintained in good working order with a panic function to be activated by staff in an emergency; a light sensor was to be installed to activate flood lighting to illuminate the area covered by CCTV in the external corral area; the drive-thru area to be covered by CCTV to show the rear of cars in addition to the existing CCTV camera showing the front of vehicles; CCTV to be maintained in good working order, retained for 31 days and to show accurate time/date. CCTV images to be available to regulatory authorities on request and lighting on McDonalds property to be maintained in good working order. He continued that on 8 October, 2008 Mr. McElroy had made an application to extend

the licensing period from 0200 to 0500 hours on all days. As a result of this application West Midlands Police had made a site visit to the premises on 24 November, 2008 when it was discovered that the conditions of the licence were not being complied with because no panic alarm had been fitted; there was no light sensor for the external corral area and no CCTV to show the rear of cars using the drive-thru facility. Mr. Bailey and Mr. Hawkins (Security Manager) had been present at the site visit and Mr. Bailey had confirmed that the premises were operating to 0200 hours on Friday and Saturday evenings. The email had been forwarded to Mr. Bailey on 26 November, 2008 advising that the premises should only trade until 2300 hours until the licensing conditions had been complied with in full.

Mr. McElroy confirmed that he had no questions for PC Doyle.

Councillor Hughes asked PC Doyle if any of the outstanding conditions had been met since the site visit in November 2008. PC Doyle replied that he had received no notification from Mr. McElroy that the outstanding works had been completed.

In presenting his case, Mr. McElroy stated that the lighting to the corral area was due to be put in in November, 2008 as part of the refurbishment of the building. With reference to the panic alarm, Mr. McElroy stated that the premises had suffered four armed robberies and the police had provided panic alarms for staff. At the end of November or the beginning of December, 2008 the police had taken them away again. This had caused confusion. Alarms had been provided for staff now. With regard to CCTV coverage, the camera on the side of the building picked up the front of cars providing number plate recognition. The original CCTV at the rear of the building picked up the rear of cars but did not provide number plate recognition. This had now been changed and the new camera provided rear number plate recognition.

Steven Knapper asked when the panic alarms had been provided. Mr. McElroy replied that the panic alarms had been fitted before the last of the armed robberies which took place in late January, 2008.

Steven Knapper asked Mr. McElroy to confirm that conditions 2-5 of the licence issued on the 9 January, 2008 had now been complied with. Mr. McElroy confirmed this.

In presenting his case, PC Doyle (West Midlands Police) asked why the conditions attached to the licence granted on 9 January, 2008 had not been complied with at that time. Mr. McElroy replied that the premises had not opened until May 2008. he agreed that all conditions should have been implemented by the time the premises opened. He indicated that it was naivety on his part which had led to the conditions not being implemented fully.

PC Doyle reported that the premises had been subject to armed robbery on 18 November, 2007; 13 December, 2007; 17 December, 2007 and 25 January, 2008. he indicated that the police had left panic alarms which alerted them to any problems in January 2008. He was disappointed to hear that an alarm had not been installed to alert police to the robbery which occurred on 25 January, 2008. He added that he had not seen any CCTV footage covering the rear of vehicles and was concerned at the non compliance with conditions.

Councillor Wilkes asked whether an alarm had been provided and was working now. Mr. McElroy confirmed that an alarm was now in place.

Councillor Tweddle asked why Mr. McElroy had not invited the police to inspect the premises once the conditions had been complied with. Mr. McElroy apologised for this oversight and confirmed that he should have done so. He agreed that it was naive of himself not to have acted more promptly.

Councillor Wilkes stated that he could not understand why Mr. McElroy had not complied with all the conditions when the licence was granted in January, 2008. Mr. McElroy referred to the panic alarms supplied by the police. He referred to the CCTV camera which picked up the front of the vehicles and thought that this was sufficient. The extra lighting was to be provided during the refurbishment which had been deferred and abandoned on cost grounds. There had also been a problem with the CCTV recognising number plates.

David Watson reported that there was no reference to number plate recognition in the conditions attached to the licence. PC Doyle replied that he had had a meeting with the applicant at which CCTV to show the rear of vehicles had been agreed verbally. He agreed that it had not formed part of the original conditions.

In summing up, Steven Knapper drew attention to section 4 of the report and explained the actions the Sub-Committee could take to promote the licensing objectives.

PC Doyle stated that he had emailed Mr. McElroy explaining the defects which needed addressing but had received no response from Mr. McElroy. The review forms had been signed on 15 December and three weeks later he had still received nothing from Mr. McElroy. The police were always concerned when no action was taken.

In summary, Mr. McElroy informed the meeting that he took the licence and licensing objectives very seriously. He agreed that he had made a number of mistakes and had behaved naively. He thought that all the outstanding matters, except the flood lighting had been completed when the extension had been applied for. He added that he had not traded after 11.00 p.m. once the police had advised him of the breach of conditions.

The parties left the meeting at 10.35 a.m.

The Sub-Committee carefully considered all the written evidence submitted and all the representations made at the hearing and it was:-

Resolved

- (1) That Mr. McElroy be given a formal warning regarding his non-compliance with the conditions attached to his licence;
- (2) That the company continue to trade until 11.00 p.m. only on all days until such time as the police have confirmed in writing that all the conditions attached to the licence had been complied with.

The parties were readmitted at 10.47 a.m. and informed of the Sub-Committee's decision.

Mr. McElroy was advised of his right of appeal to the Magistrates Court within 21 days of the determination being issued.

Termination of meeting

The meeting terminated at 10.50 a.m.

Chairman

Date