

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Monday, 16 October 2023 at 2.00 pm.

Present:

Sub-Committee:

Chairman: Councillor D G Beaney

Councillors: M F Hibbert (as substitute for Councillor J S Back)  
O C de R Richardson

Officers:

Legal Adviser: Litigation Lawyer  
Licensing Officer: Licensing Manager  
Licensing Officer  
Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2023/0009A).

13 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor J S Back.

14 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor M F Hibbert be appointed as substitute for Councillor J S Back.

15 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

16 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF MCDONALD'S RESTAURANTS, DISCOVERY PARK, MONTAGU ROAD, SANDWICH

The Sub-Committee considered an application for the grant of a premises licence in respect of McDonald's Restaurant, Discovery Park, Montagu Road, Sandwich CT13 9FA. The application was for:

Late Night Refreshment

Every day	23:00 – 05:00 hrs
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The following documentary evidence and/or other information was taken into about by the Sub-Committee:

- (i) The Licensing Manager's report including, the options available to the Sub-Committee

- (ii) Application from McDonald's Restaurants Limited for the grant of a premises licence and place (appendix A of the agenda)
- (iii) Map of the area (appendix B of the agenda)
- (iv) Representation from Other Persons (appendix C of the agenda)

On the basis of the representations of the applicant, their representatives and Other Persons, the Sub-Committee found the following facts to be established.

- (i) The application from McDonald's Restaurants Limited, represented at the hearing by Leo Charalambides (Barrister) and Mark Gallant (Licensing Officer for McDonald's), was for the grant of a premises licence at Discovery Park, Montagu Road, Sandwich, CT13 9FA.
- (ii) The application sought late night refreshment every day from 23:00 – 05:00 hrs.
- (iii) During the licensing consultation process there were no representations made by any of the Responsible Authorities.
- (iv) During the licensing consultation process there was one representation received from Other Persons objecting to the application. The representation cited the application as undermining the licensing objective of 'prevention of public nuisance'.
- (v) With regard to the 'prevention of public nuisance' representation, the concerns included: noise disturbance to residents in Sandwich, the area being used by motorists and motorcycles as a meeting place and for activities such as speeding, racing and drifting, people being motivated to gather in the area, increasing anti-social/illegal behaviour, there would be complaints that would take time and resources from the council and the Police and four existing McDonald's within 10 miles with a 24hrs licence therefore there was no need for another one. The Sub-Committee had regard to the written representation.
- (vi) In considering relevant representations the Sub-Committee took into account Dover District Council's licensing policy, the Licensing Act 2003 and the guidance issued under s.182 of the Licensing Act 2003. In regard to the prevention of public nuisance, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premise on persons living and working in the area around the premises and that beyond the immediate area surrounding the premises, these were matters for the personal responsibility of individuals under the law. An individual who engaged in antisocial behaviour was accountable in their own right. Regarding the need of another McDonald's in the area, the "Need" concerned the commercial demand for another pub or restaurant or hotel and was a matter for the planning authority and for the market. This was not a matter for a licensing authority in discharging its licensing functions.
- (vii) The Sub-Committee also took into account that there was no cumulative impact policy applicable in the district, and that the concerns raised were speculative therefore under case law should be disregarded unless supported by previous facts as evidence.

- (viii) The Sub-Committee heard from Mr Charalambides who drew the Sub-Committee's attention to s.2.26 and s.14.19 of the Guidance issued under s.182 of the Licensing Act 2003 and explained that but for this one objection the licence would have been granted as applied for. It was further explained that according to the s.182 guidance, Dr Martin's representations were not relevant as the concerns were regarding the use of local roads by other persons. Mr Charalambides explained that planning permission was granted for the site, responsible authorities did not make any representations therefore they were satisfied with the application. Regarding the operating schedule at pages 27 and 28 of the document pack, Mr Charalambides explained that CCTV and Staffsafe systems were in place as well as conflict management and difficult customers training.
- (ix) In response to questioning by the Sub-Committee regarding traffic and litter, Mr Charalambides explained that traffic was considered as part of the planning application and McDonald's was aware that litter was a problem, and they had schemes and policies in place and had started to promote recycling. Litter patrols were in place around the store and immediate area.

The Sub-Committee had taken into account the following:

- (i) Dover District Council's Licensing Policy
- (ii) The Licensing Act 2003 and in particular the guidance given under Section 182 of the Act
- (iii) Article 6 of the Human Rights Act (Right to a fair trial)
- (iv) Section 17 of the Crime and Disorder Act 1998 (Duty to consider crime and disorder implications)

RESOLVED: (a) That the application for a premise licence in respect of McDonald's Restaurant, Discovery Park, Montagu Road, Sandwich CT13 9FA be GRANTED as applied for:

Late Night Refreshment

Every day	23:00 – 05:00 hrs
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- (b) The operating schedule at pages 26 and 27 of the agenda is accepted by the Sub-Committee.

The meeting ended at 2.42 pm.