

LICENSING SUB-COMMITTEE HEARING

Members' Record of Determination



RE: 94752 Mario's Fish and Chips, 15 Market Square, Olney

14 May 2007

Constitution of the Sub-Committee:	Councillors Burke, Drewett, Latham and Tamagnini-Barbosa
Chair	Councillor Burke
Observer:	Councillor Tamagnini-Barbosa
Legal Advisor:	I Ali
Committee Managers:	J Sloan
Licensing Officer:	E Fisher
Applicant/ Applicants	Mr Gomez
Interested Parties	JD Green R Turner
Members of the Public:	2
Documentation:	Report of Licensing Officer, additional photographs and annexed representations Additional photographs from members of public
Apologies:	Thames Valley Police
Disclosures of interest:	None

Prior to the commencement of the hearing the Chair read an opening statement, which constituted the strict procedure to be followed at the hearing, the process for all parties giving evidence and the rights of persons attending the hearing.

At the close of the hearing the Chair informed all parties of their rights of appeal to the decision which had been made by the Sub-Committee.

Milton Keynes Council

Page 1 of 3

Signature:	
Chairman:	Councillor Burke
Date of Hearing:	14 May 2007

LICENSING SUB-COMMITTEE HEARING

Members' Record of Determination



RE: 94752 Mario's Fish and Chips, 15 Market Square, Olney

14 May 2007

1. Findings of Fact

The Sub-Committee accepted the following findings of fact from the evidence available.

- (a) There were no representations from responsible authorities including Thames Valley Police and Environmental Health.
- (b) There were 9 representations from members of the public and 1 from Olney Town Council who were unable to attend.
- (c) The applicant was willing to reduce his application hours to close at 00.00 midnight seven days a week.
- (d) There was evidence of litter which was directly related to the operation of the premises.
- (e) There was evidence of noise and anti-social behaviour in the vicinity.
- (f) The premises are in close proximity to residential properties and adjacent to a public right of way.
- (g) There was an issue of noise related to waste disposal and staff using the back garden area.
- (h) The Committee could not determine whether there was a serious noise problem related to the extractor fans. There is a noise but there had not been an Environmental Health objection.
- (i) There are no public conveniences in the immediate vicinity open during the hours of the application.
- (j) The premise acts unintentionally as a congregation point for youths.
- (k) There was evidence of other businesses taking action to secure their premises by installing gates and bricking up a door.

2. Full text of unanimous decision on the application

RESOLVED

That the application be not granted.

Milton Keynes Council

Page 2 of 3

Signature:	
Chairman:	Councillor Burke
Date of Hearing:	14 May 2007

3. Reasons for decision

(An explanation of why:

- when applying the findings of fact to the statutory provisions, Secretary of State's Guidance, the authority's Statement of Licensing Policy and, above all, promotion of the licensing objectives, a particular conclusion is reached to grant, grant with conditions other than standard conditions, or refuse the application.*
- if facts were in dispute and it is not clear from the "Findings of Fact" box above, which facts were disputed and, in coming to the finding of fact, the extent to which the parties and witnesses were believed or disbelieved and the information on which the Panel relied in reaching its decision.*


Legal advice was not given in deliberation.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the report DCMS Guidance and its own licensing policy.

The Committee accepted that not all the alleged problems were under the control of the applicant and any conditions relating to public nuisance caused by anti-social behaviour once beyond control of the license holder are not justifiable. However the premises acted as a magnet to youths who congregate and create anti-social behaviour. Under section 17 of the Crime and Disorder Act 1998 this Sub-Committee has to have regard to the likely effect of the anti-social behaviour of this licensable activity and must do all it can to reasonably prevent such matters from occurring, and on that basis the Sub-Committee determined that the application be not granted.

Milton Keynes Council

Page 3 of 3

Signature:	
Chairman:	Councillor Burke
Date of Hearing:	14 May 2007