

MEETING	LICENSING HEARING
DATE	8 APRIL 2013
PRESENT	COUNCILLORS BOYCE, HORTON AND TAYLOR

38. CHAIR

RESOLVED: That Councillor Boyce be elected as Chair of the meeting.

39. INTRODUCTIONS**40. DECLARATIONS OF INTEREST**

At this point in the meeting, Members were asked to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

41. MINUTES

RESOLVED: That the minutes of the Licensing Hearing held on 20th August 2012 be approved and signed by the Chair as a correct record.

42. THE DETERMINATION OF AN APPLICATION BY MS. JOANNA S GRAY, OTTILIE WOOD, JOHN MORGAN, WILL YEMUYANG AND ALISTAIR AND SUE McCLEAN FOR A REVIEW OF A PREMISES LICENCE SECTION 52(2) IN RESPECT OF McDONALDS, 14-16 BLAKE STREET, YORK, YO1 8QG (CYC-010238)

Members considered an application for the Review of a Premises Licence in respect of McDonalds, Blake Street, York by Ms. Joanna S Gray, Ottilie Wood, John Morgan, Will Yemuyang and Alistair and Sue McClean.

In coming to their decision, the Sub-Committee took into consideration all of the evidence and submissions that were presented to them and determined their relevance to the issues raised and the licensing objectives.

The following were taken into account:

1. The licence review application form, in particular the existing licence conditions and the steps taken by the applicant to promote the four licensing objectives.
2. The Licensing Officer's report and her comments made at the Hearing, including that a licence variation had been granted in 2009 for late night refreshment until 05:00. The Licensing Authority had made representation to the application following complaints relating to anti-social behaviour and litter. She advised that the premise falls within the Cumulative Impact Zone and that consultation on the application had been carried out correctly.
3. The Review Applicant's representations made at the Hearing. Dr. Roger Pierce spoke on behalf of the review applicants. He advised that their sleep is disturbed almost nightly by anti-social behaviour outside McDonalds. The noise begins typically at 01:30 and lasts through to a peak at 4am. He stated that residents had reported no disturbances during the month that the restaurant was closed for refurbishment. Despite the residents of Blake Street liaising with McDonald's staff, the Police and the Council, the problems continue. He called some Blake Street residents as witnesses who confirmed the nature and extent of the incidents of public nuisance and crime and disorder.
4. The representations made on behalf of McDonalds by their Legal Representative, who argued that there is no causal link between McDonald's licensable activities and the problems in Blake Street; it is the fact that customers are already drunk when they arrive at the restaurant. She argued that the cumulative impact of anti social behaviour in the centre of York is the underlying issue and that closing McDonalds through the night is not a balanced way to address the issues raised by the review.

5. The representations made by North Yorkshire Police in writing and at the hearing. Their Legal Representative referred the Sub Committee to the Police's written representation and their crime statistics for Blake Street confirmed that the 4am peak of crime and disorder in Blake Street is not typical of the rest of the City. The Police confirmed that there were no reported incidents during the period when the premises were closed for refurbishment. Although McDonalds had been fully co-operative with the Police, the problems continue.
6. The representations made by several interested parties in support of the review in writing and at the Hearing. The Sub-Committee considered this representations to be relevant to the issues raised and the licensing objectives listed above as they confirmed that they had experienced all the problems outlined by the review applicants. One of the representations was considered not relevant as the comments made referred to Duncombe Place Taxi Rank and it was considered that there is insufficient causal link between the reported issues and the premises.
7. The representations made by a representor in opposition to the review application in writing and at the Hearing. She advised that she was opposed to the review on the basis that McDonalds is a place for tourists and displaced individuals to take shelter throughout the night.
8. Written representations made by local residents during the consultation period.

Members then considered the following options:

Option 1. To modify the conditions of the licence.

The Sub-Committee decided to accept this option and modify the conditions of the licence as it was considered to be proportionate and appropriate to meet the licensing objectives.

Option 2. To exclude a licensable activity from the scope of the licence.

The Sub-Committee decided to reject this option as it was not considered appropriate or proportionate to

remove the licensable activity ‘late night refreshment’.

Option 3. To remove the designated premises supervisor.

The Sub-Committee decided to reject this option because there had been no complaints against the designated premises supervisor.

Option 4. To suspend the licence for a period not exceeding 3 months.

The Sub-Committee decided to reject this option because a longer term solution was sought.

Option 5. Revoke the licence.

The Sub-Committee decided to reject this option because they did not consider it appropriate or proportionate to revoke the premises licence.

In coming to their decision of approving **Option 1**, the Sub-Committee considered the existing licence conditions individually and decided to modify the following conditions:

- Provision of Late Night Refreshment shall take place:

Sunday to Thursday: 23:00 to Midnight

Friday and Saturday and the evening before a bank holiday and all race days:

23:00 to 01:00

- An Adequate number of Door Supervisors will be provided from:

Midnight to 01:00 Friday and Saturday, the evening before a bank holiday and all race days.

Reasons for the Decision:

The Sub-Committee considered carefully the application for review of the premises licence and gave due regard to the Licensing Act 2003, the licensing objectives, statutory

guidance, the Council's statement of Licensing Policy, Human Rights legislation and representations, both written and given orally by all representors.

Members considered and gave no weight to the evidence, both written and presented at the hearing, about late night public nuisance caused by people using the taxi rank in Duncombe Place as it was considered that there is insufficient causal link between the reported issues and the premises.

The Sub-committee noted that the premises are situated close to residential properties and commercial premises in Blake Street. They accepted the representations of the Police, of the Blake Street residents and of the proprietor of commercial premises on Blake Street who gave evidence at the hearing that there is significant late night crime and disorder and public nuisance associated with the premises on a regular basis. They considered in particular that the lead applicant's log of incidents and the crime statistics prepared by the Police carried great weight.

The Sub-Committee carefully considered the argument raised by the premises licence holder that there is no causal link between the provision of late night refreshment at the premises and the problems of late night crime and disorder and public nuisance in Blake Street. This argument was rejected because it was considered that the evidence presented to the committee provided sufficient causal links between the reported issues of public nuisance and crime and disorder and the premises, caused by the congregation of McDonald's customers outside the premises and their behaviour in the vicinity of the premises. The Sub-Committee also attached great weight to the evidence given at the hearing orally by the Police that there were no crime incidents during the period when the premises were closed for refurbishment, and to the representation given at the hearing on behalf of the applicants that there were no disturbances during this period and also to the evidence given at the hearing orally by the proprietor of nearby commercial premises that she experienced no public nuisance at her premises during this period.

The Sub Committee noted that the premises licence holder has cooperated fully with requests made by the Police to attempt to address the problems of crime and disorder and public nuisance at the premises, and has put in place various measures, such

as the provision of street marshals. However, the Sub Committee was satisfied that despite its best efforts, the premises licence holder cannot effectively manage the ongoing and significant problems of public nuisance and crime and disorder that have been identified.

Having considered each of the options available, including the option to take no action, the Sub-Committee were satisfied that it was not appropriate or proportionate to revoke the premises licence/remove the licensable activity but instead decided to modify the conditions of the licence as being proportionate and appropriate to meet the licensing objectives in all the circumstances.

RESOLVED: That Members determined the application as detailed above.

REASON: To address the issues raised.

Councillor Boyce, Chair
[The meeting started at 10.15 am and finished at 2.15 pm].