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## Licensing Act 2003 Sub Committee

10 March 2008

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for McDonald's Restaurants Ltd, Clifton Moor Centre, Hurricane Way, Rawcliffe, York, YO30 4XZ**

#### **Summary**

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-010564
3. Name of applicant: McDonald's Restaurants Ltd.
4. Type of authorisation applied for: Variation of Premise Licence.
5. Summary of application: The nature of the application is to seek to extend the existing hours for the provision of late night refreshment, Monday to Sunday from 01:00 hours to 05:00 hours.

#### **Background**

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.

#### **Promotion Of Licensing Objectives**

8. The operating schedule submitted by the applicant shows that, in addition to existing conditions attached to the current licence, the licensing objectives would be met as follows:
9. General: The premises will operate as a restaurant selling food and non-alcoholic drinks for consumption on and off the premises.
10. The prevention of crime and disorder: The licence holder will maintain a CCTV system in operation on the premises while open to the public. Immediate access to the CCTV system will be provided to Police Officers and Council Officers at their request.

11. Public safety: The licence holder will comply, as far as reasonably practicable, with relevant Health and Safety and Fire Safety Legislation. All required health and safety risk assessments will be undertaken in writing and reviewed on a regular basis.
12. The prevention of public nuisance: The licence holder will ensure that the footpath immediately outside the front of the restaurant is kept clear of litter emanating from the premises.
13. The protection of children from harm: Children's parties will not be held during the licensed period.

### **Special Policy Consideration**

14. This premise is not located within the special policy area.

### **Consultation**

15. Consultation was carried out by the applicant in accordance with s13, and s17(5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
16. All procedural aspects of this application have been complied with.

### **Summary of Representations made by Responsible Authorities**

17. No representations were received from responsible authorities.

### **Summary of Representations made by Interested Parties**

18. Representations have been received from the interested parties listed at Annex 4 (confidential). Their representations are attached at Annex 5.
19. The addresses of the interested parties are indicated on the map attached as Annex 6 (confidential). A further map indicating the general area from which representations were received is attached at Annex 7.
20. An "interested party" is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
21. Members are reminded that representations are only "relevant" if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

22. Members should note that the Parish Council submitted their representation on 12 February 2008, the day after the representation period ended. A meeting of the Parish Council took place on the evening of 11 February 2008 and miscommunication from the Licensing office resulted in the delay of the receipt of the representation.

Members of the sub committee are requested to consider whether they will accept this representation at the commencement of the meeting.

### **Planning Issues**

23. Temporary planning permission to allow 24 hour opening at these premises has been granted, effective until 31 October 2008.

### **Options**

24. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
25. Option 1: Grant the variation of the licence in the terms applied for.
26. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
27. Option 3: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
28. Option 4: Reject the application.

### **Analysis**

29. The following could be the result of any decision made this Sub Committee:-
30. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
31. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
32. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 4: This decision could be appealed at Magistrates Court by the applicant.

## **Corporate Priorities**

34. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
35. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

## **Implications**

36.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

## **Risk Management**

37. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
38. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

## **Recommendations**

39. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

## Contact Details

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**Report Approved**



**Date** 12 February 2008

**Specialist Implications Officer(s):**

Colin Langley  
Interim Head of Legal & Democratic Legal Services

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**Wards Affected: Rawcliffe, Skelton & Clifton Without**

**For further information please contact the author of the report**

**Background Papers:**

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application form
- Annex 3 (Confidential)** - List of Interested Parties
- Annex 4** - Copies of representations from Interested Parties
- Annex 5 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 6** - Map showing general area from which representations received
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations