



Agenda Item

Licensing Act 2003 Sub Committee

3 April 2009

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for McDonald's restaurant, 14-16 Blake Street, York YO1 2QN

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-10238.
3. Name of applicant: McDonald's Restaurant Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend existing hours for provision of late night refreshment, Monday to Sunday until 05:00 hours and to remove the linked condition No.3 at Annex 1 relating to the current opening times. Also to remove condition No 1 at Annex 1 relating to legislation now repealed i.e. Late Night Refreshment Houses Act 1969
6. The existing hours for the provision of late night refreshment are Monday to Sunday until 03:00 hours.

Background

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

Promotion Of Licensing Objectives

9. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
10. General: The licence holder shall work in partnership with all responsible authorities to ensure the promotion of the four licensing objectives.
11. The prevention of crime and disorder: 1.) All shift running managers shall have safety and security training. 2) A CCTV system shall be in operation on the

premises while open to the public. CCTV images will be held for a period of 28 days and access to the CCTV system will be provided to police officers and council officers on request.

12. Public Safety. 1) Safety systems shall be in place to protect the safety of customers and staff at all times. These systems are regularly reviewed and updated where appropriate.. 2) The licence holder shall work with the local Environmental health Office and the local Fire service to ensure compliance as far as reasonably practicable with relevant Health and safety and fire safety legislation. 3) The restaurant is subject to inspections from its own safety and security teams to ensure systems are being maintained.
13. Public Nuisance. 1) Litter patrols shall collect McDonald's packaging and other litter within a certain radius of the restaurant and will act on reasonable recommendations from the Environmental Health Officer to extend this patrol to a nearby area. 2) Self closing doors are fitted to limit noise. 3) Staff shall encourage customers to be considerate to neighbours and limit noise both when ordering food and on leaving the local area.
14. The protection of children from harm. 1) Staff shall ensure that children are protected from harm at all times when visiting the restaurant.

Special Policy Consideration

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

Consultation

16. 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.
17. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

18. No representations were received from responsible authorities.

Summary of Representations made by Interested Parties

19. Representations have been received from 8 interested parties listed at Annex 3. Their representations are attached at Annex 4.

20. The location of the residential properties owned by the interested parties in relation to the premises subject to this application is shown on the map attached at Annex 5.
21. 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.
22. 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.

Planning Issues

23. At the time of putting this report together planning were unable to provide their comments. They will be reported at the hearing by the Licensing Officer.

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 23 March 2009

Specialist Implications Officer(s):

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Wards Affected: Guidhall West

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** - List of Interested Parties
- Annex 4** - Copy of representations from Interested Parties
- Annex 5** - Map showing general area from which representations received.
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations