

	
Meeting of Licensing Act 2003 Sub-Committee	8 April 2013
Report from the Assistant Director – Housing & Community Safety	

Section 52(2) Review of Premises Licence CYC/010238 for McDonalds Restaurant, 14-16 Blake Street, York, YO1 8QG

Summary

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of McDonalds Restaurant, 14-16 Blake Street, York, YO1 8QG, premises licence number CYC/010238.
2. Name of applicants: 1. Joanna Sara Gray, 2. Otilie Wood, 3. Sue McClean, 4. Alister McClean, 5. John Morgan, 6. Will Yemuyang – All resident at Stonegate Court, 11 Blake Street, York.
3. Summary of Review: The application to review the premises licence relates to the following licensing objectives;
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance.
4. A copy of the application for review is attached at Annex 1 and is summarised as follows:
5. The application includes a catalogue of incidents of anti-social, abusive and intimidating behaviour, noise, disorder, criminal damage and littering which regularly occur between the hours of 23:00 to 05:00 in and around McDonalds Restaurant area and are believed linked to the operation of the restaurant. These incidents are believed to be generated by McDonalds' customers and gangs who congregate in the

area attracted to the restaurant and by vehicles and taxis dropping off and picking up customers throughout the night and into the early hours. Many of the people involved appear to be fuelled by alcohol. The applicants state that the number of incidents was noticeably reduced during the months the restaurant was closed for refurbishment.

6. The applicants also state that despite meetings held between McDonalds' management, residents and responsible authorities and the efforts of police, council officers, McDonalds' staff and doorstaff to address and alleviate the situation, the problems persist.
7. A copy of the current premises licence is attached at Annex 2. The premises licence currently authorises the following:

Licensable Activity	Current Days & Hours
Provision of late night refreshment	23:00 hours to 05:00 hours Monday to Sunday

8. The premises licence issued on conversion under the Licensing Act 2003 was granted on 1 September 2005. This licence authorised the provision of late night refreshment from 23:00 hours until 03:00 hours daily. A variation of the premises licence to extend the hours for provision of late night refreshment until 05:00 hours daily was granted on 3 April 2009 at a hearing of the licensing sub-committee.

Consultation

9. Consultation was carried out by the Applicants and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of a review by licensing authority. Copies of the application were served on all responsible authorities and the premise licence holder. Notice of the application was displayed in the vicinity of the premises and on the exterior noticeboard at the Guildhall. In addition relevant Ward Councillors were informed by way of register.

10. As a result of the consultation 44 representations were received, one of which contained a 40 signature petition. A schedule of names and addresses of representors is attached at Annex 3. Copies of the representations received are attached at Annex 4.
11. A map showing the location of McDonalds Restaurant in relation to representors' addresses is attached at Annex 5.
12. Further representations have been received from the following responsible Authorities -
13. North Yorkshire Police has made representation to the application on the grounds of all four licensing objectives;
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm.The representation includes a schedule of incidents reported to the police and crime statistics associated with McDonalds and the Blake Street area. A copy of the representation is attached at Annex 6.
14. City of York Council Licensing Authority has made representation to the application. Between July and October 2012 several complaints were received relating to anti-social behaviour and litter. A copy of the representation is attached at Annex 7.

Other Relevant Information

15. The applicants had previously submitted an application to review the premises licence on 24 December 2012 which was subsequently withdrawn on 7 February 2013.
16. Special Policy Consideration
This premise falls within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a

special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The Special Policy was approved by full council on 7th January 2011. A copy of the special Policy Statement is attached at Annex 8.

17. There are no planning implications in relation to this application.

Options

18. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:
19. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
20. Option 2: To exclude a licensable activity from the scope of the licence.
21. Option 3: To remove the Designated Premises Supervisor.
22. Option 4: To suspend the licence for a period not exceeding three months.
23. Option 5: To revoke the licence.
24. Members are also reminded of the option to issue a 'yellow card', ie a warning as to future conduct which may accompany options 1 to 4.

Analysis

25. The following could be the result of any decision made by this Sub-Committee:
26. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
27. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.

28. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
29. Option 4: This decision could be appealed by the premises licence holder.
30. Option 5: This decision could be appealed by the premises licence holder.
31. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

Council Priorities

32. 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.
33. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

34.
 - **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

35. 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 which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
36. 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

37. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

Contact Details

Author:	Chief Officer Responsible for the report:		
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	Report Approved	√	Date 27/03/13

Wards Affected: Guildhall West

Annexes

- Annex 1** - Copy of application for review of premises licence
- Annex 2** - Copy of premises licence
- Annex 3** - Schedule of representors
- Annex 4** - Copy of representations received
- Annex 5** - Map showing location of McDonalds in relation to residents making representation.
- Annex 6** - Copy of North Yorkshire Police representation
- Annex 7** - Copy of CYC Licensing Authority representation
- Annex 8** - Copy of CYC Cumulative Impact Policy
- Annex 9** - Legislation and Policy Considerations