

REPORT FOR: LICENSING PANEL

Date:	22 July 2013
Subject:	Application for a new premises licence in respect of 'McDonald's Restaurant, Shaftesbury Circle, South Harrow, Middlesex, HA2 0AE'
Responsible Officer:	Caroline Bruce - Corporate Director, Environment and Enterprise
Exempt:	No
Enclosures:	Application for premises licence Plan of the premises Location (GIS) Map Representations Supplementary Documents

Section 1 – Summary

The application for a new premises licence to be granted under the Licensing Act 2003 in respect of 'McDonald's Restaurant, Shaftesbury Circle, South Harrow, Middlesex, HA2 0AW', has attracted one representation from a responsible authority and nine representations from other persons, seven of which oppose the application and two that support it. As per the Council's Licensing Policy and delegation of Licensing functions, all applications with unresolved representations are to be dealt with by the Licensing Panel.

Representations received

From	Relevant Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health Authority (Pollution and environmental enforcement)	Representation received
Trading Standards	No representations received
The Area Child Protection Service	No representations received
LFEPA	No representations received
Metropolitan Police	No representations received

Representations from other persons

From	Relevant Representations details
Other persons	Representations Received

Section 2 – Report

Current situation

- 2.1 The applicant, K&G Restaurants Limited, has applied for a new premises licence in respect of 'McDonald's, Restaurant, Shaftesbury Circle, South Harrow, Middlesex, HA2 0AE'. The application seeks to permit the provision of late night refreshment for the drive through area for consumption off the premises only, during the following timings:

Late Night Refreshment:

Friday & Saturday 23:00 hours - 00:00 hours

Hours Open to Public:

Sunday - Thursday 06:00 hours - 23:00 hours

Friday & Saturday 06:00 hours – 00:00 hours

- 2.2 The premises is situated at Shaftesbury Circle, South Harrow, Middlesex, HA2 0AE adjacent to a roundabout that consists of commercial premises with residential properties close by. Whitmore High School is also located next to the premises. A map of the area is attached to this report.

Representations

- 2.3 The application for a new premises licence has attracted one representation from a responsible authority and nine representations from other persons, 7 of which oppose the application and 2 which support it. Copies of the representations received are attached to this report.

Consultation

- 2.4 The application was advertised in accordance with the Regulations under the Licensing Act 2003.

Licensing Policy Implications

- 2.5 In relation to the Council's Licensing policy at paragraphs 8.3 and 8.8, the applicant has addressed how he intends to promote the licensing objectives.

Legal Implications

- 2.6 The Licensing Panel is required to hold a hearing to consider the application and any relevant representations unless all parties agree that a hearing is unnecessary. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 2.7 The Licensing Panel is required to give appropriate weight to the representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps that are appropriate to promote the four licensing objectives.
- 2.8 Having considered those relevant matters, the Licensing Panel is required to take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –

The steps are—

(a) To grant the licence subject to—

(i) conditions that are consistent with the operating schedule accompanying the application modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 of the Licensing Act 2003 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application

For the purposes of 2.8(a) (i) above, the conditions of the licence are modified if any of them is altered or omitted or any new conditions added.

2.9 It should be noted with all options that –

- Clear reasons should be given for the decision.
- Any additional or modified conditions should be practical and enforceable
- The applicant and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in Schedule 5 to the Licensing Act 2003

2.10 In addition to determining the application in accordance with the legislation, Members must have regard to –

- The common law rules of natural justice
- The provisions of the Human Rights Act 1998
- The considerations in section 17 of the Crime and Disorder Act 1998

- 2.11 By section 6 of the Human Rights Act 1998, the Panel is required to act in a way that is compatible with rights under the European Convention for the Protection of Human Rights. The following provisions of the European convention seem relevant: Article 6 (right to a fair trial) Article 14 (prohibition of discrimination) and Article 1 of the First Protocol (protection of property).

Community Safety

- 2.12 In relation to section 17 of the Crime and Disorder Act 1998, this states:

'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'

The Borough Commander has not made a representation against this application.

Financial Implications

- 2.13 There are no financial implications.

Risk Management Implications

- 2.14 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in Schedule 5 to the Licensing Act 2003, they can appeal to a Magistrates' Court. The Appeal period is 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Kanta Halai	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 08 July 2013		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 08 July 2013		

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Licensing Services Manager x 6237

Background Papers: Current Licence, Licensing Act 2003, Statutory Guidance