

REPORT FOR: LICENSING Panel

Date:	26 March 2019
Subject:	Application for a new premises licence for McDonald's Restaurant, Shaftesbury Parade, Shaftesbury Circle, South Harrow, Middlesex, HA2 0AE
Responsible Officer:	Paul Walker, Corporate Director – Community Directorate
Exempt:	No
Enclosures:	Premises licence application & Plan (appendix 1) Location (GIS) Map (appendix 2) Representations (appendix 3) Summary of proposed times and conditions (appendix 4)

Section 1 – Summary

An application has been received for a new premises licence for McDonald's Restaurant, Shaftesbury Parade, Shaftesbury Circle, South Harrow, Middlesex, HA2 0AE. Representations have been received from 2 other persons who express concerns about the possible undermining of one or more of the licensing objectives should the licence be granted.

Section 2 – Report

- 2.1 K & G Restaurants Limited have applied for a new premises licence (appendix 1) for McDonald's Restaurant, Shaftesbury Parade, Shaftesbury Circle, South Harrow, Middlesex, HA2 0AE. A location map is available in appendix 2.

2.2 Licensable activities

The applicant has applied for the following licensable activities and timings:

	<i>Proposed hours</i>			
	<i>Late night refreshment (LNR)</i>	<i>Hours open to public</i>	<i>Restaurant hours - LNR</i>	<i>Drive thru hours LNR</i>
Mon	23:00 – 00:00	06:00 – 00:00	23:00 – 00:00	23:00 – 00:00
Tue	23:00 – 00:00	06:00 – 00:00	23:00 – 00:00	23:00 – 00:00
Wed	23:00 – 00:00	06:00 – 00:00	23:00 – 00:00	23:00 – 00:00
Thu	23:00 – 00:00	06:00 – 00:00	23:00 – 00:00	23:00 – 00:00
Fri	23:00 – 02:00*	06:00 – 02:00*	23:00 – 00:00	23:00 – 02:00*
Sat	23:00 – 02:00*	06:00 – 02:00*	23:00 – 00:00	23:00 – 02:00*
Sun	23:00 – 00:00	06:00 – 00:00	23:00 – 00:00	23:00 – 00:00

(* indicates that activity carries on the following morning)

Special Extensions:

From the terminal hour on New Year’s Eve until 05:00 on New Year’s Day and on all public Holidays until 02:00.

2.3 Description of premises

A McDonald’s restaurant and drive thru located in Shaftesbury Circle, South Harrow. The premises is a two storey building with the restaurant being on the ground floor. The premises also has its own parking area for customers.

2.4 Officers’ observations

The premises is located in Shaftesbury Circle. The surrounding area is a mix of residential and commercial premises.

2.5 The two representations received from other persons concentrate on the undermining of two of the licensing objectives – the prevention of crime and disorder and the prevention of public nuisance. In summary, the representations raise concern about issues surrounding a possible increase anti-social behaviour, and noise. Although the Police have not made a representation, they have commented “In relation to the premises licence application for this venue, the conditions proposed by the applicant are accepted by us and as such there are no police representations. Mr Simons has indicated that his client would be willing surrender the existing licence if this one is granted.” Harrow Council’s Anti-Social Behaviour unit have also made comments which indicate that they have no concerns with the application and that they have a good working relationship with McDonalds.

2.6 The proposed conditions that would appear on the licence are on Appendix 4.

2.7 Information on public nuisance is available in paragraphs 2.15 – 2.21 of the Statutory Guidance. In particular, paragraph 2.16 states:

“Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse

effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.8 History of the premises

This premises already benefits from a premises licence which was originally granted in May 2013. This licence is for the provision of late night refreshment on Fridays and Saturdays between the hours of 23:00 and 00:00. There is also a special extension so that late night refreshment can be provided from the terminal hour on new year's eve to 03:00 on new year's day.

2.9 Proposed Designated premises supervisor

There is no designated premises supervisor for this application as it does not seek the retail sale of alcohol

2.10 Details of application

Received: 30 January 2019

Closing date for representations: 27 February 2019

The application has been advertised in accordance with the prescribed regulations

2.11 Representations

Representations have been received from 2 other persons. One person being a member of the public and the other, being a body representing persons living in the vicinity of the premises – a councillor. More information is available in appendix 3 of this report.

2.12 Operating schedule and conditions

Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.

2.13 The Panel's attention is directed towards paragraphs 8.41 – 8.49 of the statutory guidance issued under the Act that sets out matters that ought to be considered by an applicant when drafting their operating schedule.

2.14 The most critical part of the operating schedule are the steps taken by the applicant to promote the licensing objectives. Applicants are always reminded to take careful consideration as to what is entered in this section as whatever is proposed will be transferred into conditions on the licence. The Panel's discretion is engaged in the light of relevant representations to impose conditions that are appropriate to promote the licensing objectives. Conditions should be tailored to the size, type, location, characteristics and activities at the premises, and the Panel should be aware of any indirect costs that may arise from the imposition of conditions.

2.15 Appendix 4 sets out for the Panel's consideration a summary of proposed hours and the conditions transferred from the operating schedule. The wording of the conditions is taken from the licensing authority's pool of model conditions that is publicly accessible on the council's website.

- 2.16 When imposing conditions relating to CCTV the Panel should bear in mind the Information Commissioner's guidance¹ that such conditions should only be imposed where it is justified to do so and in order to meet the licensing objectives.
- 2.17 The Panel has the discretion to add to or modify these conditions in light of the representations where it is appropriate to do so to promote the licensing objectives.
- 2.18 Licensing policy
Paragraph 6.3 of the licensing authority's statement of licensing policy sets out the matters that the Panel may take into account when considering representations (although the Panel is not limited to these matters):
- degree of confidence in the management of the premises
 - location of premises
 - gang-related activity in the area
 - management of waste particularly preventing fly-tipping
 - commitment to reporting all crimes and anti-social behaviour associated with premises
 - crime prevention audit conducted by police/professional security organisation
 - staff training
 - anti-theft provisions (eg time-locked safes, magnetic door locks, regular removal of cash from tills)
 - suitable and sufficient security plan
 - effective wind-down and dispersal policies
 - use of CCTV
 - noise mitigation measures associated with licensable activities, particularly near to residential properties
 - provision of litter bins and litter patrols
 - use of low-impact litter materials
 - noise from people arriving at or leaving from the premises and which is related to licensable activities
 - control of other nuisances relating to licensable activities such as light or odours
 - measures to protect children from being exploited or coming to harm
- 2.19 Legal implications
The Licensing Panel is required to hold a hearing to consider any relevant representations made in relation to the premises licence application unless all parties agree that a hearing is unnecessary. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 2.20 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.
- 2.21 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 modify the conditions of the licence;
- (b) to reject the whole or part of the application;

2.22 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.

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

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

2.24 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)

2.25 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.'

Financial Implications

2.26 There are no financial implications.

Appeals

2.27 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 within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 14 March 2019		
Name: Andrew Lucas	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 13 March 2019		

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, Ext. 6267

Background Papers: Application form, Statutory Guidance.