

Licensing Sub-Committee 1 - 28th May, 2014

Report of the Director of Corporate Resources

Application to Vary a Premises Licence

PURPOSE

1. To consider the application for variation of the premises licence in respect of the premises known as McDonald's Restaurant Limited, Dudley Road, Kingswinford, West Midlands, DY6 8WT.

BACKGROUND

2. McDonald's Restaurant Limited, Dudley Road, Kingswinford was first issued with a premises licence on the 19th September 2005, for the following:

Late Night Refreshment

Sunday – Thursday 23.00 – 23.30
Friday & Saturday 23.00 – 00.00.

3. On the 8th January 2008, an application was received from Shoosmiths in respect of McDonalds Restaurant Limited, Dudley Road, Kingswinford, for the variation of that premises licence for the following hours:

Late Night Refreshments

Monday – Sunday inc 23.00 until 05.00

4. Representations were received from 2 local residents on the grounds of public nuisance.
5. This matter was considered by the Licensing Sub-Committee 5 on the 26th February 2008, the Committee resolved that the application be refused.
6. This matter was subsequently appealed at the magistrates Court on the 25th and 26th November 2008, the Magistrates Court found in favour of the Local Authority.

7. A further application for variation of the premises licence was received and approved on the 26th June 2013, the current licence is issued as follows:

Late Night Refreshments

Monday – Sunday inc 23.00 until 01.00

8. On the 3rd April 2014, Shoosmiths, made application for a further variation of the premises licence in respect of McDonalds Restaurants Limited, Dudley Road, Kingswinford, West Midlands as follows:

Late Night Refreshment

Monday – Sunday 23.00 until 05.00

9. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
10. On the 9th April 2014, representations were received from Food & Occupational Safety, a copy of that report has been forwarded to Committee Members, the premises licence holder and interested parties in accordance with the Licensing Act 2003.
11. Letters of objections have been received from 6 local residents, copies of those letters have also been forwarded to Committee Members, the premises licence holder and interested parties in accordance with the Licensing Act 2003.
12. The Current premises licence is in the name of McDonald's Restaurant Ltd.
13. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters

FINANCE

14. There are no financial implications.

LAW

15. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
16. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - Hold a hearing to consider item, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and,

- Having regard to the representations, take such of steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
 - The steps are:-
 - To modify the conditions of licence;
 - To reject the whole or part of the application.
17. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to :-
- the applicant;
 - any person who made relevant representations in respect of the application and
 - the Chief Officer of Police for the police area in which the premises are situated.
18. In pursuance of regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the licensing authority must make its determination at the conclusion of the hearing.
19. In pursuance of schedule 5, section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
20. In pursuance of schedule 5, section 4(2) where the Licensing Authority grant an application to vary a premises licence in whole or in part. The applicant may appeal against any decision to modify the conditions of the licence under subsection 4(a) of section 35 of the Licensing Act 2003.
21. In pursuance of schedule 5 section 4(3) where a person who made relevant representations to the application desires to contend:-
- a) that any variation made ought not to have been made, or
 - b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified item in a different way, under subsection 4(a) of section 35 of the Licensing Act.

They have the right of appeal to the Magistrates' Court.

EQUALITY IMPACT

22. This report complies with the Council's policy on equal opportunities.

23. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
24. There has been no consultation or involvement of children and young people in developing these proposals.

RECOMMENDATION

25. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers