

**Licensing Sub-Committee 5**

**26<sup>th</sup> February 2008**

**Report of the Director of Law and Property**

**Application to Vary a Premises Licence**

**Purpose of Report**

- 1 To consider the application for variation of the premises licence in respect of McDonalds Restaurant Ltd, Dudley Road, Wall Heath, Kingswinford, West Midlands.

**Background**

2. On the 8<sup>th</sup> January 2008, an application was received from Shoosmiths, in respect of McDonalds Restaurant Ltd, Dudley Road, Wall Heath, Kingswinford, West Midlands, to vary a premises licence. The application for variation of licence is attached to this report at Appendix 1.
3. The application had the following documents enclosed:-
  - Correct Fee (£315.00)
  - Plan of the premises
4. On the 22<sup>nd</sup> August, 2005, an application for the grant of a premises licence was received, that licence was subsequently granted on the 19<sup>th</sup> September 2005, the license was issued for the following:

Late Night Refreshment

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

5. An application to vary this licence has been received as follows:

Late Night Refreshment

Monday – Sunday 23.00 – 05.00

6. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
7. Representations have been received from 2 local residents on the grounds of public nuisance copies of those letters have been sent to the applicant, elected members and all interested parties in accordance with the Licensing Act 2003.
8. 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**

9. There are no financial implications.

### **Law**

10. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, Section 11, Part 3 and Schedule 8, Part 1.
11. 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 necessary 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.
12. 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.
13. 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.
  14. If the Licensing Authority refuse to grant the application to vary the premises licence, there is a right of appeal to the Magistrates' Court pursuant to Schedule 5, Part 1(b).
  15. Pursuant to Section 4(1), (2) and (3), Schedule 5 of the Licensing Act 2003, 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.

Where a person who made relevant representations to the application desires to contend:-

- that any variation made ought not to have been made, or
- 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**

16. This report complies with the Council's policy on equal opportunities.
17. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
18. There has been no consultation or involvement of children and young people in developing these proposals.

**Recommendation**

19. That the Sub-Committee determine the application.

*John Pym*

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DIRECTOR OF LAW AND PROPERTY

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**List of Background Papers**

None.