

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
2 September 2016 (10.30 - 11.30 am)**

Present:

COUNCILLORS

Conservative Group Dilip Patel (Chairman) and Wendy Brice-Thompson

Residents' Group Jody Ganly

**East Havering
Residents' Group**

**Independent Residents
Group**

UKIP Group

Present at the meeting were Mr Gerry Byrne (operator), Sam Cadman (on behalf of the Havering Planning Authority and Paul Campbell (Licensing Officer).

Also present were the Council's Legal Adviser and the Clerk to the Sub-Committee.

Councillor Ian de Wulverton was also in attendance.

There were no disclosures of interest, and all decisions were taken with no votes against.

The Chairman reminded Members of the action to be taken in an emergency.

**1 APPLICATION FOR A PREMISES LICENCE - MCDONALDS - STRAIGHT
ROAD, ROMFORD RM3 8XR**

PREMISES
McDonalds
Straight Road,
Romford,
RM3 8XR

APPLICANT

Mr F Simpson
1 Archgate Business Centre,
Morth Finchley,
London
N12 8UB

1. Details of Application

Late Night Refreshment		
Day	Start	Finish
Monday to Sunday	23:00	00:00

Opening Hours		
Day	Start	Finish
Monday to Sunday	06:00	00:00

Comments and observations on the application

The applicant acted in accordance with regulations 25 and 26 of *The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005* relating to the advertising of the application. The required public notice was installed in the Yellow Advertiser on the 20 July 2016.

2. Details of Representations

There were no representations against this application from interested persons.

There was one (1) representation against this application from a responsible authority:-

Planning Enforcement

Details of representations

Valid representations may only address the following licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of children from harm
- Public safety

The planning department's objection related to the prevention of public nuisance.

An assessment by the planning department was undertaken in 2009 with relation to the drive thru lane of the McDonalds restaurant, and the impact on the amenity of the local area was considered and subsequently conditioned. This was recently reviewed under newer planning applications P1351.14 and P1643.14. The use of the drive thru was subsequently conditioned so that:

“1. The drive thru facility hereby permitted shall only be open to the public between the hours of 06.30 and 23:30 on any day of the week.

Reason:-

To enable the Local Planning Authority to retain control in the interests of amenity and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.”

The licence application sought to have the drive thru open past what had been approved by recent planning decisions. There had been several planning applications considered over the last year that would indicate that the use of the drive thru had been seriously considered and subsequently conditioned; with no appeal made against the decisions taken the Council's planning department to regulate the use of the drive thru. Given the decisions that had been taken by the planning department (where the impact of the use of the drive thru had been conditioned to protect the amenity of the local residents), and there had not been a considerable change to the circumstances that would mean that a planning application for the hours proposed in the licence would be granted, the planning department deem that the proposed hours of operation do not accord with any approved planning permissions, nor would a planning application be granted for the times applied for in the licence application. As such the application for the licence goes directly against Licencing Policy 6. However, as the planning and licencing regimes were separate there had been consideration of the merits of the licence application.

The proposals in the licence application sought to have the drive thru open from 6am to midnight every day. It was noted that there were 9 houses boarding the site to the east, and an additional 9 flats to the north of the site. The use of the drive thru outside of what had been approved previously by the planning department (6:30am to 11:30pm) would be considered unacceptable in terms of the amount of disturbance to the local residents, which was the reason for conditioning the planning applications to less than what was applied for. The use of the drive thru from 6am to midnight every day would cause an undue amount of disturbance, and would introduce a night-time use in a largely residential area. The licence application therefore demonstrated a lack of consideration for the local area, and demonstrated a lack of high standards of management which is expected under Licencing Policies 1 and 14.

Given the arguments as set out above, the licence application conflicted licencing policy, and the planning department's concerns on the prevention of public nuisance had not been alleviated through the licence application.

As this was the case, the planning department asked that the Licencing Sub-Committee condition the use of the drive thru to what had been approved previously by the planning department. If the Sub-Committee was not minded to do this, then the planning department would completely object to the licence application.

It was to be noted that if the use exceeded what has been approved by the planning department, then formal enforcement action could be considered by the planning department, including the service of a breach of condition notice.

Applicant's response.

Mr Byrne, the operator of the restaurant, advised that he managed a total of seven McDonalds restaurants five of them being in the Havering area.

Mr Byrne advised that he had purchased the franchise for the application branch in 2002 and had over 25 years' experience in operating McDonalds restaurants.

Mr Byrne also advised that the drive thru had been opened in 2009 and had since been the subject of a number of planning applications that had resulted in the drive thru being able to operate between the hours of 06.30-23.30hrs 7 days a week.

The Sub-Committee was advised that the nearby KFC restaurant at Gallows Corner had recently been given planning permission until midnight and that the application was to allow McDonalds to operate on a similar nature.

Mr Byrne confirmed that the premises currently closed at 23.00hrs 7 days a week.

Mr Byrne also confirmed that there had been no representations from residents living in close proximity to the restaurant and acknowledged that this was due to the current efficient management of the premises and its immediate surroundings.

Mr Byrne also confirmed that if the licensing application was granted then he would be submitting an application for an extension to the planning permission for the restaurant.

3. Determination of Application

Consequent upon the hearing held on 2 September 2016, the Sub-Committee's decision regarding the application for the granting of the premises licence for McDonalds-Straight Road was as set out below, for the reasons stated:

The Sub-Committee was obliged to determine the application with a view to promoting the licensing objectives.

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition the Sub-Committee took account of its obligations under section 117 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

4. Decision

Having considered the oral and written submissions of the objector and the applicant and having regard to the licensing objectives the Sub-Committee agreed to the granting of the premises licence as applied for.

Chairman