

Cheltenham Borough Council

Licensing Sub - Committee (Alcohol and Gambling) – 27 May 2025

Licensing Act 2003: Determination of a New Application for a Premises Licence

McDonalds, 374 Gloucester Road, Cheltenham, GL51 7AY

Report of the Senior Licensing Officer

1. Introduction

1.1 The Licensing Act 2003 (the 2003 Act) allows applicants to apply for a premises licence at any time. In this case, an application was received on April 3rd 2025 from McDonalds Restaurants Limited in respect of McDonalds, 374 Gloucester Road, GL51 7AY.

1.2 The applicant has requested for a premises licence to permit:-

Late Night Refreshment - Every Day 23:00 - 00:00

Late night refreshment is a licensable activity required for any premises to sell hot food and/or drink between 23:00 and 05:00. No premises licence is required for the sale of hot food or drink outside of these times, and so McDonalds do not need a premises licence to operate outside of the hours they have applied for.

1.3 As part of the application, the applicant submitted an operating schedule to be attached to the licence if successful which has been included as **Appendix 1**. An operating schedule should contain clearly worded, measurable, and enforceable licence conditions. Members will need to consider if, or how, the proposals within the operating schedule can be applied.

The licencing policy statement is provided in the background papers at the base of this report and contains a list of model conditions which may be used to apply the proposals put forward within the operating schedule.

1.4 If this application is approved a premises licence would be issued.

1.5 Members are being asked to consider if the application for a premises licence should be granted.

1.6 **The sub-committee may**

1.6.1 Grant the application as applied

1.6.2 Modifying the conditions attached to the licence

1.6.3 Refusing all, or part of the application.

1.6 Legal

A sub-committee is required to discharge its duty and determine an application with a view to promoting the licensing objectives. These objectives, which are set out in section 4(2) of the Licensing Act 2003, are: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.

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2. Responsible Authorities

- 2.1 No relevant representations were submitted by any Responsible Authorities.

3. Interested Parties

- 3.1 Representations have been received from members of the public included in **Appendix 2.1**

- 3.2 A representation has been received from Cllr Dr David Willingham in **Appendix 2.2**

The objection received by Cllr Dr David Willingham has called into question the suitability of the operating schedule, highlighting that members may wish to consider resolving the lack of clarity or ability to measure parts of the proposed operating schedule. The council does provide a pool of model conditions within its Licensing Policy Statement which members may wish to draw from if they determine it to be appropriate.

- 3.3 Members should be aware that only comments relating to the licensing objectives can be considered. Comments addressing planning or the potential impact of eating fast food are not licensing concerns.

Whilst objectors raise concerns about children and the potential impact of a fast food restaurant, members are reminded that this application is required for the hours of 23:00 – 00:00 only, and so unlikely to impact the licensing objective of ‘Protection of Children from Harm’ in relation to access to fast food.

4. Local Policy Considerations

- 4.1 The paragraphs below outline the relevant extracts from the authority’s adopted Statement of Licensing Policy (Dec 2020). Members should refer to the full statement available on the authority’s website for a full understanding of the local policy considerations.

- 4.2 Policy Vision Statement - We want Cheltenham to be a safe and clean town that offers a greater diversity in the nighttime economy that is less focused on alcohol and protects the quality of life for residents.

- 4.3 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the authority will determine applications for the sale/supply of alcohol, the provision of regulated entertainment and the provision of late-night refreshment and also to provide a basis for all licensing decisions taken by the authority.

- 4.4 The objective of this policy is to:

- a) promote the four licensing objectives;
- b) ensure that the premises are appropriate for their proposed use;
- c) ensure the premises layout and condition is acceptable for the proposed use;
- d) ensure that the premises are being managed responsibly; and
- e) promote the policy vision statement.

4.5 This policy also seeks to promote the authority's wider priorities, in particular that:

- Cheltenham has a clean and well-maintained environment;
- Cheltenham has a strong and sustainable economy;
- Communities feel safe and are safe;
- People are able to lead healthy lifestyles; and
- Our residents enjoy a strong sense of community and are involved in resolving local issues.

Licensing Objectives

4.6 The authority will carry out its licensing functions under the 2003 Act with a view to promoting the four licensing objectives, which are:

- a) The prevention of crime and disorder;
- b) Public safety;
- c) The prevention of public nuisance; and
- d) The protection of children

4.7 In determining a licensing application, the overriding principle adopted by the authority will be that each application is determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to promote the licensing objectives will be imposed.

4.8 The authority will have regard to matters affecting the residential population and the amenity of the area, where the licensing objectives are relevant. These include littering, noise, street crime and the capacity of the infrastructure.

4.9 Each of the four objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity.

Core Hours for Licensable Activities

4.10 The authority believes that licensable activities carried on within the core hours set out below will generally not have a harmful impact on the licensing objectives, address the concerns raised by local residents and businesses and are less likely to attract representations.

Type of premises	Commencement Hour No earlier than	Terminal hour No later than
Restaurants	10:00	01:00

Members should consider the context of the application, and the relevance of the core hours provided within the adopted Statement of Licensing Policy (Dec 2020). Whilst Pubs/Bars/Nightclubs have separate core hours listed for both town centre areas and local neighbourhood areas, restaurants only have one set of core hours for all locations in the borough.

4.11 Where relevant representations have been made, members can take the following matters into consideration when making a decision. These are not a definitive list and other matters may be considered:

- a) Operating schedules - demonstration of compliance with management standards to support each of the licensing objectives.
- b) Proximity to residential accommodation - the likelihood of the operation to have an adverse impact on the peace and quiet of local residents.
- c) Potential noise and nuisance from people leaving and entering the premises.
- d) Ability to demonstrate that systems are in place to ensure timely dispersal of customers away from residential areas.

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- e) Use of external areas for carrying out the licensable activities and potential noise impact on local residents.
- f) Type of use – alcohol led premises such as pubs, bars and nightclubs, off licenses and hot food take away premises are more likely to be associated with crime and disorder and public nuisance than other premises such as seated restaurants, theatres, cinemas and other cultural activities.
- g) The potential for contamination of the street environment through increased litter and other pollution of the streets by customers.

5. National Guidance

- 5.1 Guidance has been issued under Section 182 of The Licensing Act 2003, the latest version being issued in February 2025.
- 5.2 Para 2.21 of the Guidance states “The 2003 Act requires licensing authorities (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable, The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.”
- 5.3 Para 2.22 of the Guidance 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.”
- 5.4 Para 2.24 of the Guidance states “As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.”
- 5.5 Para 10.6 of the Guidance states “The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.”
- 5.6 Para 10.8 of the Guidance states “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.”

- 5.7 Para 10.13 of the Guidance on proportionality states “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.”
- 5.8 Pare 10.9 of the Guidance states “It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.”

6. Licensing Comments

- 6.1 The Committee must determine this application on its individual merits with a view to promoting the licensing objectives, that are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 6.2 The Committee must have regard to all of the representations considered as relevant and weight the evidence as it sees fit. After it hears all of the relevant evidence it will then determine the application.
- 6.3 The Committee must determine this application having regard to its own licensing policy. The Committee must not arbitrarily deviate from its own policy. When it decides to do so, clear and cogent reasons must be provided in support of that decision.
- 6.4 Members should note that the Environmental Health Officer replied during consultation to state that they had no comments or objections in relation to this application.
- 6.5 In terms of representations generally, the statutory guidance makes clear in para 9.9 that “It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. “The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it”.
- 6.6 The Sub - Committee must have regard to the application, the representations received and the evidence it hears, in determining the application.

Background Papers

[Licensing Policy Statement](#)
[Licensing Act Guidance – Feb 2025](#)

Appendix List

Appendix 1 – Applicants proposed conditions
Appendix 2.1 – Public representations
Appendix 2.2 – Cllr Willingham representation

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