

## Minutes

### LICENSING SUB-COMMITTEE

10 July 2023

Meeting held at Committee Room 6 - Civic Centre, High Street,  
Uxbridge UB8 1UW



	<p><b>Committee Members Present:</b> Councillors Roy Chamdal (Chairman) Colleen Sullivan Janet Gardner</p> <p><b>Officers Present:</b> Lois King, Licensing Officer Daniel Ferrer, Licensing Team Manager Chantelle McLeod, Legal Officer (present for deliberation and decision) Matt Lewin, Legal Advisor Ryan Dell, Democratic Services Officer</p> <p><b>Also Present:</b> Mr Abel Campos – applicant’s proposed franchisee Mr Leo Charalambides – applicant’s representative Mr Mark Gallant – applicant’s licensing officer Councillor Steve Tuckwell – Interested Party Councillor Heena Makwana – Interested Party Mr Allan Kauffman – Interested Party Mrs Lynne Kauffman – Interested Party Mr Bhumit Chandi – Interested Party Councillor Reeta Chamdal</p>
11.	<p><b>APOLOGIES FOR ABSENCE</b> (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
12.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
13.	<p><b>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE</b> (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items of business were marked Part I and would be considered in public.</p>
14.	<p><b>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT</b> (<i>Agenda Item 4</i>)</p> <p>None.</p>
15.	<p><b>APPLICATION FOR THE GRANT OF A PREMISES LICENCE: MCDONALD'S</b></p>

**RESTAURANTS LIMITED, UNIT 4 OLD DAIRY LANE, SOUTH RUISLIP, HA4 0FY**  
(Agenda Item 5)

**Introduction**

Lois King, Licensing Officer, introduced the application for the grant of a premises licence: McDonald's Restaurants Limited, Unit 4 Old Dairy Lane, South Ruislip, HA4 0FY. The application was submitted by Shoosmiths on behalf of McDonald's Restaurants Limited. The application was for the provision of late-night refreshment both indoors and outdoors Monday to Sunday from 23:00 hours to 05:00 hours. Opening times would be Monday to Sunday from 05:00 hours until 05:00 hours the following day, so in effect 24-hour operation. The Sub-Committee was given an overview of the application received and was informed that 55 representations had been received from interested parties during the consultation period, 53 in objection (including one from the local Ward Councillors) and one in support. A representation had also been received from the Responsible Authorities – the Licensing Authority. A petition had been received in objection to the application with 864 signatories, 364 of whom could be identified as residing within the Borough. The Sub-Committee were invited to determine the application.

**The Applicant**

Mr Leo Charalambides, the applicant's representative, presented the application to the Sub-Committee, noting that McDonald's stores were either operated by the company itself, or franchised out. This store was to be franchised out. The prospective franchisee, Mr Abel Campos, had worked with McDonald's for 27 years; a franchisee for two years, and already ran nine stores, including stores in the Borough.

Officers had outlined that the character of the area was a mixed-use development comprising retail and leisure premises. 2014 planning permission was very specific about what the Council wanted in this area, which was to provide a food store with café and petrol station, a cinema and five restaurants along with the residential development, with no restrictions in terms of the hours of operations. This was reflected by licenses already granted for Asda and Cineworld. All-day/all-night operation in this area was very important for vibrancy, for regeneration and for the character of this development.

There was a sense that the representations seemed to think that by opening a late-night restaurant in this area McDonald's were somehow not part of the community and that was quite wrong. As a local restaurant, McDonald's depended on good relationships with the local community, local Council, local police in order to be successful. Mr Campos held a number of stores in and around Ruislip as a franchisee, and worked with the local community, such as providing the police with a gazebo to hold their surgeries and drop-in sessions post-COVID. Mr Campos also worked with a local school, providing food for under-privileged families, and worked with a nearby youth football team. Mr Campos also worked with police to provide CCTV for anti-social behaviour profiling and had been asked for his 24-hour stores to provide a defibrillator.

The other advantage of late-night opening was that there would be disabled access facilities so the night-time economy would be more accessible to those people that might need wider facilities.

If the license were to be granted, there would be approximately 60 jobs created. McDonald's were part of the 'Love Where You Live' campaign which involved litter-

picks. It was clarified that there was a local litter picking group, who McDonald's encouraged to get in touch as part of the campaign. McDonald's would also sponsor bins with the Local Authority. McDonald's considered themselves a community player.

What was key was actual evidence and not just fears and perceptions. McDonald's had a fairly comprehensive operating schedule, and the Licensing Authority's point about specificity was noted, however, one of the reasons that McDonald's maintained that style was because, as technical standards and experience develop, this allowed the ability to upgrade CCTV for example. At this store there would be full internal CCTV and external CCTV both at the front and also the rear entrance which would be used by delivery drivers. There was a 'staff safe' system which was being upgraded to a digital system which meant that as well as internal monitoring, 'staff safe' was a resource whereby each store would be able to feed into an external independent viewer that can do things such as make announcements to curb noise levels and change the music and so on. Staff would also be trained in conflict resolution.

Much of the ordering in-store now took place via an app or touch-screen. This had had a significant impact on conflict and safety as customers were in charge of their order so this reduced conflict around incorrect orders.

Paragraph 2.21 of the guidance under section 182 of the Licensing Act 2003 made it clear that beyond the immediate area of a given premises, drunkenness and littering was about personal responsibility and McDonald's could not be held accountable for customer's personal actions when they were away from the store.

All staff would have safeguarding training and would know how to deal with unaccompanied children although it was not expected for there to be unaccompanied children in the store during the times of licensable activity. The schematics within the agenda pack were referenced and a covered parking area at the back of the site was highlighted as the location where delivery drivers would access the store. This was with a view to complying with Licensing Policy chapter 24 which required operators to think about the impact of deliveries and internet sales and to undertake appropriate measures. Delivery drivers would take a route which entirely avoided the residential premises, and in an underground sheltered area that would be lit up. The front entrance would be covered by CCTV and drivers and delivery persons would be contained within the premises itself so they can be supervised at all times. The increase in deliveries, especially post-COVID, helped to reduce footfall in the store, which would also reduce litter. McDonald's were also able to know which delivery drivers would be coming; who may have had complaints against them; and there would be a possibility to ban them if appropriate.

In relation to McDonalds' own litter policy, when a store opened, there would be at least four litter picks per day, which would take place in the immediate vicinity and obvious areas, which would be around the front of McDonald's; the area between Cineworld, McDonald's and Nando's; and probably along the main residential roads. A map would be maintained and kept updated as it was in McDonalds' interest to ensure that the surrounding area was kept clear. Participation from other groups and working with the Local Authority was welcomed on this. The first litter pick would start at sunrise and the last just before sunset. The reason that there are no overnight litter picks was to do with insurance and risk assessments and ensuring the safety of staff, although this was kept under review. McDonald's did work with local Councils to sponsor litter bins depending on the local Council's own policies and also the Highways team in terms of waste and collections.

The original planning permission had a noise management plan that meant that nothing would take place before 06:00 or after 20:00. McDonalds' view was that this premises would have a positive impact on the local area with a well-lit store which would be well-run, well-managed and with no history or issues or problems or challenges. The representative noted that they were McDonalds' go-to barrister for licensing and had never had to have a review. ASBET and the police had not submitted representations.

As for the risks associated, particularly with deliveries, these risks were contained with the well-lit premises, CCTV, and covered parking area that is behind the store.

In summary, licensing was about identifying where there were real concerns and how to address these.

It was clarified that delivery drivers would go down the side of Cineworld, into the ground floor covered car park. Delivery drivers would enter the rear of the store via a door from the ground floor covered car park. There was also a dedicated loading bay for stock deliveries so these would not go into the covered parking area.

Members asked if there were timing restrictions on the specified outdoor dining area. There would be no outdoor dining from 23:00 to 05:00.

Members asked whether McDonald's had had any communication with the interested parties. It was confirmed that there had been none.

Members referenced the litter patrol and asked whether litter had been an issue for McDonald's generally. McDonald's worked with the Department for Environment, Food and Rural Affairs and had done since the 1980s on national and local schemes.

Members referenced the application where it noted *"Access to the CCTV system will be provided to Police Officers at their request where reasonable"* and asked the applicant to explain what 'reasonable' meant in this context. It was noted that 'immediately' did not work due to technology and/or authorisation. The time frame could vary from on the moment to 24 hours. Members asked and the representative clarified that having the 'right manager' available referred to training and security. Staff would ensure that sensitive data and data protection were taken into account. Generally, in any given McDonald's store there was someone available who knows about CCTV who can access CCTV and is alive to data protection implications. CCTV images were retained for a full calendar month/31 days. It was accepted to update this to reflect the Licensing Authority's suggested condition of a minimum of 31 days.

Members referenced the application where it noted *"Where it is practical to do so we are content to put measures in place to limit noise"* and asked what 'practical' meant in this context and what specific measures would be put in place. Each store would be fitted with extractors and noise facilities that meet common standards as well as adhere to the planning permission. The entrance lobby counted as an acoustic lobby. There was a dedicated area for delivery drivers.

Members also asked about managing noise of customers. The front of the store would be well-lit, there would be CCTV and CCTV warnings. McDonalds worked with local police in Ruislip to build offender profiles. All staff would be trained in conflict training and anti-social behaviour reduction. Managers would be trained to work with customers if necessary to move people along.

Members noted that the application made no reference to incident logs. The

representative noted that their incident logs covered litter picks, deliveries, cleaning, and these were available to the police and the Local Authority.

Members asked how noise complaints would be dealt with during the licensable hours. The representative referred to a study that was noted to demonstrate that people leaving a McDonald's left quieter than when they arrived. Also, the outdoor dining area would be closed after 23:00. People leaving the store would be supervised by staff and CCTV. Members noted that they had to consider the application on what was presented, and the representative responded that McDonald's cannot be held responsible for people when they leave the premises. Members reiterated the question relating to what procedures would be in place to respond to complaints. The representative noted that the store would be in a leisure precinct with Cineworld, Nando's and others and suggested that there were no residences in the immediate vicinity. The store would be covered by CCTV and the area was well-lit. The representative noted that what took place away from the premises went beyond the legal responsibility of McDonald's. The proposed franchisee gave an example of how they would deal with a complaint by noting that engagement with local residents was very important. Details of the complainant would be taken and a time would be arranged where appropriate to discuss the incident, and they would engage them with local stakeholders understand how best to take it forward.

Members asked about shift patterns. The representative noted that one reason that McDonald's applied to have a 24-hour store was because 24-hour operating helped staff. A night shift typically started at 22:00 and finished just before the breakfast run. Members asked if there would be any staff changeover between 23:00 and 05:00. Typically, staff would come in at 22:00 for a handover and there would be a change of shift just after 05:00. Late night staff would be going home when early commuters were starting. Staff typically found this safer to operate in this way as there would be more public transport available which would also have an environmental impact. This philosophy was applied to two other 24-hour stores that were already operated by the proposed franchisee. The proposed franchisee further noted that the store would create jobs.

Members asked about delivery drivers, and where they would park their bicycles, mopeds and so on. Currently there was a partnership with UberEATS, Just Eat and Deliveroo. All delivery persons would pick up their orders from the delivery room behind the kitchen.

Members asked where customers would park. The representative noted that they could park in local parking facilities. When pressed by Members for more detail, the representative noted the Asda car park and anywhere that people could lawfully park.

Members asked which route customers could take. If not by car, customers could arrive via public transport or by foot. When asked which routes were available to customers, the representative noted that the local area was public highway.

Members referred the application where it stated: *"This store operates a 'No Open Alcohol Containers' policy to prevent persons carrying open alcohol into the in-store area"*, and asked how this would be policed. Staff would have conflict management training to deal with any difficult customers. Staff were also supported by the 'staff safe' system which meant that if staff pressed a button, a control room in Scotland would make an announcement that addressed any anti-social behaviour. The distance between the two parties here would lower the likelihood of conflict. The type of music played was also controlled whereby if classical music was playing, people were more

likely to leave than if pop music was playing. Whether free internet was switched on would also have an impact. These micro-measures all contributed to reducing the likelihood of anti-social behaviour. Ultimately, issues could be referred to the police.

Members asked if bins were provided for customers to dispose of litter. McDonald's was always happy to sponsor bins and this was about tying in with the Local Authority's waste collection. There would be litter bins on the curtilage. McDonald's also sponsored recycling. When asked if the bins were fit for purpose, the proposed franchisee noted that they were and they would separate the rubbish.

### **Responsible Authorities**

A representation was received from the Licensing Authority. Daniel Ferrer, Licensing Team Manager, addressed the Sub-Committee on behalf of the Licensing Authority. On the Prevention of Crime and Disorder, the application was very general in relation to CCTV measures. It was important that CCTV was available to police but also the Local Authority. It was also important that there was a person who is familiar with the running of the CCTV. It was also important to formalise which types of incidents would be kept on the incident log. CCTV and incident logs were essential.

In terms of Public Safety, there were lots of routes for staff and customers to take and it was important that escape routes were unobstructed as safety was paramount.

On the Prevention of Public Nuisance, the application was quite general whereas the Licensing Authority had to be specific. There was potential for public nuisance from customers leaving the store, and while not directly opposite, a site visit had confirmed that residences, specifically Dolomite Court, were roughly 50 meters away from the site and so there was a concern about the late-night hours and potential vehicle noise and what happened in practise. Furthermore, there was little in terms of specifics on the litter patrols, and on how customers were informed of this. This licensing objective was the main concern.

On the Protection of Children from Harm, the proposed franchisee had stated that they did not foresee that being an issue but this could not be guaranteed. McDonald's would be attractive to young adults/ families living in the area.

Members asked about the distance to residences, and whether this was measured or an estimate. Officers confirmed it was an estimated 50 meters, although not directly opposite.

### **Interested Parties**

A representation had been received from the South Ruislip Ward Councillors. Councillor Steve Tuckwell addressed the Sub-Committee.

Real concerns came from the 400-500 residents of Arla Place who had been in contact with the Ward Councillors and who vehemently oppose this application. The Ward Councillors agreed with residents in opposing the application for a 24-hour McDonald's.

On the provision of late-night refreshment, outdoor provision was noted in the application.

Furthermore, the proposed franchisee and their representative had indicated that they

wanted to be good neighbours, yet there had been no engagement with residents on their fears and anxieties regarding the application. The Ward Councillors were often dealing with cases of anti-social behaviour and just the previous evening there had been an extensive police presence in the Asda car park with over 100 vehicles appearing on site. Having a 24-hour McDonald's would only increase the risk of further anti-social behaviour.

Councillor Tuckwell made a point about how resourcing would be managed/how attrition would be managed to avoid situations around lack of staff on the night shift.

The application had been quite creative around delivery drivers, but this was a concern for residents in terms of avoiding slippage between delivery drivers and pedestrians. What guarantees were there to stop delivery drivers from not using their dedicated area. There was already a high HS2 vehicle presence in the area. There were also safety concerns around these mopeds/ bicycles around shoppers with trolleys/ pushchairs.

Ward Councillors would have liked more information on noise mitigation around the outdoor dining area. 24-hour opening would cause immense disruption to nearby residents. There would also be a risk of cutting corners, and illegal parking. There was a nearby children's playground which could be used to dump litter, which could exacerbate an existing issue. A 24-hour McDonald's would be a beacon for anti-social behaviour and car meets.

The Ward Councillors objected to the suggestion that there were no residences in the immediate vicinity, as Dolomite Court was very close. A recent street surgery led to residents compelling the Ward Councillors to oppose this application. The Safer Neighbourhood Team from the Metropolitan Police also had a street briefing the following week and the same residents compelled the police to oppose the application. There was close collaboration with the Safer Neighbourhood Team on a variety of matters, and they had had to increase their patrols of the area. Hillingdon Council had also had to install cameras at the entrance to Victoria Road and the local area.

Members asked if there had been any Members Enquiries and Councillor Tuckwell noted that there had been several on a range of issues from littering to anti-social behaviour which is the number one area of concern from residents.

It was confirmed that the outdoor dining area would be closed between 23:00 and 05:00.

It was confirmed that the Ward Councillors were representing concerns from 400-500 residents, which included children, of Arla Place and particularly Dolomite Court. The Ward Councillors had also received representations from Angus Drive and other parts of South Ruislip. The petition of over 300 residents was noted.

A representation had been received from Mr Allan Kauffman on behalf of South Ruislip Residents Association.

On the Prevention of Public Nuisance, in the opinion of South Ruislip Residents Association, while there would be an impact on Arla Place, there would also be disruption to Victoria Road. There would also be noise nuisance from vehicles entering/leaving the site. The main concern among the roughly 1,900 members of South Ruislip Residents Association was the 24-hour opening times. There had been incidents of high-speed vehicles in the car parks including Asda car park with loud

radio noise.

It was noted the Ruislip McDonald's store had security guards, which emphasised the anti-social behaviour problem, but that this would not be the case for the proposed South Ruislip store. Young people would be encouraged to congregate around a well-lit site, and this store would be an invitation for congregation. Further to this, recently, numerous nitrous oxide cannisters had been littered in the Asda car park, and there had been many reports of anti-social behaviour in the car park.

There was no evidence to suggest the need for a 24-hours store. It was clarified that 'need' was not a licensing consideration, and it was re-emphasised that each application had to be considered on its own merit.

A representation had been received from Mrs Lynne Kauffman on behalf of St Mary's Church PCC.

Recent personal experiences of McDonald's had not been positive. Reference was made to the ability for staff to use a tannoy to deter anti-social behaviour. Personal experience of this in another McDonald's store demonstrated that this method did not work.

It was suggested that sometimes franchisees may not stick to rules.

It was mentioned that litter picking would not happen overnight due to safety concerns for staff, which implied it may not be safe for residents.

A representation was received from Ms Priya Bhojani, presented by Mr Bhumit Chandi.

Anti-social behaviour was already happening in the area and there were also concerns about delivery drivers illegally parking on pedestrianised zones and loading bays. While a planned route for delivery drivers was noted, the reality was most important.

At this point, a short break was taken. On the resumption of the meeting, it was highlighted by the Legal Officer that it was suggested by the applicant's representative that during the recess, a Sub-Committee Member had had a brief discussion with a Councillor who had submitted a representation. It was confirmed that the Sub-Committee Member had had a brief conversation, not related to the application, with another Councillor who was sat in the audience, not a Councillor who had submitted a representation.

## **Discussion**

Members asked the Licensing Officer about opening times of nearby premises. Asda's current opening hours, confirmed by a site visit, were Monday to Saturday 07:00-23:00 and Sunday 11:00-17:00. Nando's current opening hours, again confirmed by a site visit, were Monday to Sunday 11:30-22:00. Cineworld's opening hours were more unusual in that they depended on the films shown and their running times. It was indicated that for the week of 07-13 July the opening time was 09:30. It was noted that Cineworld did hold a licence for the provision of late-night refreshment between 23:00-05:00 every day.

It was noted that the applicant had received a copy of each representation via their solicitor. The applicant also received a copy of the petition. Members asked the proposed franchisee how they dealt with these. The applicant's representative noted



that the representations were read and considered and if there was any merit in engaging with the residents then that would be done. As there had been no engagement with residents, Members asked if the applicant felt there was no merit in the representations. The applicant's representative noted that it was easier for them to address the Sub-Committee rather than meet with residents directly. The representative noted that while large in number, the representations were focused in nature and so the most appropriate response would be to the Sub-Committee directly.

The representative noted that fears and anxieties of residents were not relevant considerations. Well-being and quality of life were not the correct legal test. Planning permission had determined that these types of stores without restrictions were suitable for this area in terms of the regular operation of McDonald's. Stock deliveries and waste collections would happen during normal hours. Collections for delivery would take place from their own dedicated area and so the potential for disturbances was limited by the operating schedule. Traffic on the public realm is not a licensable activity. The Local Authority had decided that this area should have the benefit of an open 24/7 free parking facility. The representative noted that McDonald's could include the nearby playground in their litter picks. The 2014 planning permission wanted five restaurants operating without restriction and 24-hour parking.

On the Prevention of Public Nuisance, part of Hillingdon's Licensing Policy was referenced: *"When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objectives"*. The representative noted that this policy goes on to state *"They should then include in the operating schedule how they will deal with those matters."* Members noted that it was for the applicant to identify potential issues. There were genuine concerns from neighbours close-by. There were points of access for people walking across the residential area and by driving on Victoria Road, so there was a question of how this would be managed. The applicant's representative referred to the section 182 guidance chapter 14 and noted that, in terms of noise nuisance, licensable activity would take place between 23:00-05:00 so deliveries of stock was not a relevant consideration; waste collection was not a relevant consideration; the role of delivery drivers was a relevant consideration.

Members further asked how customers arriving at and leaving the store would be managed, with reference to the proposed franchisee's other stores. The applicant's representative implied that this question was 'irrelevant, wrong and misinformed' and that how people go and leave a licensed premises was out of McDonald's control.

Members asked, if there was a noise complaint from neighbours during 23:00-05:00, how this would be dealt with. The representative noted that the McDonald's site comprised the premises and area in the direct vicinity. The outdoor retail area would be closed from 23:00. It could not be controlled whether people ate at home or further down the street. The McDonald's site did not include any of the publicly available car parking. At this point it was reiterated that the question was about neighbour complaints and how these would be dealt with. The representative noted that many McDonald's stores had a dedicated email or telephone number that residents could use, and these complaints would be investigated, however the section 182 guidance made a distinction between relevant representations that were associated with the premises and those that are associated with the conduct of people away from the premises and McDonald's could not be expected to deal with the conduct of people away from the premises. McDonald's could not be expected to manage the Asda car park. It was suggested that concerns about music playing from cars in Asda car park late at night were not a genuine concern because it was outside of McDonald's control.

The proposed franchisee noted that it would be in their interest to meet local residents and understand their concerns and to work with them as the local area was a place to live for potential customers.

With reference to the four litter picks per day, Members asked how much litter would be generated. It was noted that four per day was the minimum and this would be kept under review. It was noted that McDonald's would not just pick up their own litter, but any litter found in the vicinity, and this would include the nearby playground. Any other hotspots that may become apparent could be added to the litter picks, although there would have to be safety considerations, such as not crossing a central reservation. Litter plans were undertaken in consultation with the local community.

Any incidents would be logged in the incident log so they could be reviewed. Incident logs would be reviewed by the franchisee normally weekly or monthly with the area manager and signed off. Members noted that this was quite broad and when asked further, it was noted that whether it was weekly or monthly would depend on whether or not there were any specific issues. The number of incidents could lead to increased frequency of reviews.

Members asked the Licensing Officer if there had been any Members Enquiries around the immediate area. The applicant's representative suggested that this was not related to the relevant representations. The Licensing Officer noted that they had made inquiries with the residents' services members enquiries team who had done various searches and reported that there were no Members Enquiries for the location.

Members asked about the nearby petrol station and its hours of operation.

In relation to the outside dining area, Members asked how any tables/chairs would be cleared away and where they would be stored.

The Licensing Authority's representation suggested relevant conditions in relation to the Prevention of Crime and Disorder and Public Safety:

Number 1: *"The premises shall install and maintain a comprehensive CCTV system. The CCTV shall continually record whilst the premises is open for licensable activities. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon request of Police or authorised officer throughout the entire 31-day period."* This was accepted by the applicant.

Number 2: *"A staff member from the premises who is conversant with the operation of the CCTV system shall be available during licensable hours. This staff member must be able to provide the Police or authorised Council officer copies of recent CCTV images or data with the absolute minimum of delay when requested."* This was accepted by the applicant.

Number 3: *"An incident log shall be kept at the premises and made available on request to an authorised officer of the Council or the Police. It will record the following: (a) all crimes reported to the venue (b) any complaints received concerning crime and disorder (c) any incidents of disorder (d) any faults in the CCTV system, (e) any visit by a relevant authority or emergency service."* This would be a new condition. This was accepted by the applicant.

Number 4: *"The means of escape provided for the premises shall be maintained*

*unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided*". It appeared that this was covered by the regulatory reform fire safety order. The applicant's view on whether that would be a necessary condition to add were sought. The applicant's representative noted that it was not as this was complied with anyway, however Members could add this condition if they deemed it necessary.

Councillor Tuckwell acknowledged that a question on types of litter being collected had been answered previously. Councillor Tuckwell also asked about the Members Enquiries. There had been a discrepancy between the responses to a question on the number of Members Enquiries on the site, and it was acknowledged that this may have been due to differences in search terms on the database of Members Enquiries, for example "*Arla Place*" and "*4 Old Dairy Lane*".

The Licensing Officer clarified that pages 205-216 were an incident log which formed part of one of the Interested Party's representations. It was a log of anti-social behaviour, relating to the area of the Old Dairy, and the car park, partially relating to noise from car engines. On this point, Councillor Tuckwell added that they had attended a Ward Panel meeting with the Metropolitan Police Safer Neighbourhood team a couple of weeks previously where they presented crime statistics for South Ruislip Ward. A hot spot for anti-social behaviour, car crime, and theft was centred around the car parks that surrounded Arla place and the walkway in Arla place itself.

### **Closing Remarks**

Councillor Tuckwell made a brief closing remark.

Approval of this application would be in conflict with the Council's primary objective which was to put residents first.

The applicant's representative made a brief closing remark.

Consideration had to be given to responsibility when individuals/ potential customers were away from the site. There was a difference between relevant and irrelevant representations. The playground was relevant; public parking was irrelevant. This application formed part of a holistic approach, and the Council wanted a car park open 24/7. The operating schedule had not been criticised and while some conditions had already been agreed, the application should be granted. The proposed franchisee added that they were committed to the restaurant and committed to long-term success of working collaboratively with local residents.

The Sub-Committee then adjourned the hearing and moved into private deliberations.

### **The Decision**

In making our decision, we have taken into account:

- the agenda and reports pack
- evidence presented and submissions made by the parties at the hearing
- the Council's statement of licensing policy and statutory guidance issued by the Home Office

Our decision is to **refuse** the application. The reasons for our decision are set out below.

The Premises is a fast-food restaurant selling hot food and non-alcoholic drink for consumption on and off the premises. It is located in a mixed-use development – the Old Dairy – which includes a cinema and supermarket (both of which hold premises licences), various restaurants and other leisure businesses (one of which, Nando's, is licensed) and around 150 flats. The Old Dairy also adjoins a retail park, which includes two licensed premises (Aldi and B&M Home Stores).

The application seeks authorisation for the following licensable activities:

<b>Licensable activity</b>	<b>Hours</b>
Late night refreshment	2300-0500 (Mon-Sun)
Opening hours	0500-0500 (Mon-Sun)

The Licensing Authority submitted a relevant representation objecting to the application based on all four licensing objectives. 55 other persons submitted relevant representations, all but one of which objected to the application. This included the three ward councillors who objected on all four licensing objectives.

The Applicant explained that the Premises had not yet begun trading. The planning permission for the Old Dairy redevelopment had been intended to ensure a mixed residential and leisure offering in this area and had not restricted the hours of the commercial units. They wanted to be a part of the community because their business depends on good relations with their neighbours, including the Council and police. They gave examples of various initiatives of community engagement which other of their restaurants engage in. This included a 'Love Where You Live' campaign, which focuses on litter picking. They described the operating schedule set out in the application form as "comprehensive" and the following points were explained by the Applicant:

- Crime and disorder. CCTV would be comprehensive, covering internal and external areas. A Staff system would be available to provide an additional level of control over the behaviour of customers in the Premises. The Premises was only responsible for the behaviour of customers within its immediate vicinity; anything beyond that area was a matter of personal responsibility.
- Public nuisance. The outdoor dining area of the Premises would not be used during licensable hours and this area can be physically closed off when not in use. A condition to this effect would be accepted. There were no residential properties opposite the Premises and it was unlikely that residents of Arla Place would be affected by the Premises. The Premises had been designed with deliveries in mind. Delivery drivers would park in a dedicated loading bay towards the rear of the Premises and would then pick up orders in a dedicated delivery room away from the main customer area. Deliveries are a significant part of the business and help to reduce public nuisance by reducing footfall and litter. The Premises was well lit and covered by CCTV which would help to deter anti-social behaviour. There would be a minimum of four litter picks per day, usually starting at sunrise and finishing at sunset. Having heard some of the representations made, this could include the children's playground. There would not be overnight litter picks to protect the safety of members of staff and because of restrictions in their insurance policy. Waste and delivery collections were regulated by the planning permission and restricted to between 6am and 8pm each day.
- Public safety. Staff had been trained on conflict management and there was a specific policy to prevent open alcohol containers from being brought into the Premises.

- Protection of children from harm. All staff will be trained on safeguarding and lone children, although it was not expected that children would be present during licensable hours.

The Applicant submitted that this would be a well-run business which would contribute positively to the licensing objectives. They noted that neither the Police nor Environmental Health had submitted representations. They also confirmed that they would be willing to agree to proposed conditions 1-3 as set out in the Licensing Authority's representation. They emphasised that the planning permission for a mixed-use development without restriction on hours of operation was the Council's planning vision for the area. They also argued that behaviour of customers (such as how they park their cars in the Asda car park, or the mode of transport used to get to the Premises) was not within their control and was not relevant to this application.

The Licensing Authority welcomed the Applicant's agreement to their proposed conditions 1-3 but maintained that condition 4 (public safety) was also sought. Public nuisance was their main concern. Arla Close was not directly opposite but the nearest residential properties were less than 50m away (although it was confirmed this was an estimate rather than an objective measurement), with Dolomite Close being the nearest block. They acknowledged the importance of personal responsibility, and the plan for managing deliveries, but maintained that there was a real potential for public nuisance nonetheless, particularly with people and vehicles coming and going to and from the Premises. They commented that the application form was very general and it was necessary to assess this proposal in this location on its own merits. More information was needed on how dispersal of customers would be managed. Although it was unlikely that children would be on the Premises during licensable hours, this could not be guaranteed because there were children and young families living nearby. Again, more information was needed on how children would be protected.

We also heard from four Other Persons who had submitted representations. Cllr Tuckwell stated that he was speaking as a ward councillor on behalf of approximately 400-500 residents of Arla Place and other residents from nearby areas who vehemently opposed the application. There had been no engagement with residents prior to the application. He described a major police incident at the Asda car park only the night before the hearing, which was an indication of the real difficulties with anti-social behaviour experienced in this location. Deliveries were a major area of concern and, notwithstanding the arrangements proposed, there could in practice be slippage into Arla Place which would cause major disturbance to residents. There was a children's playground which already experienced litter bins being abused and, given that no overnight litter picking was proposed, this could impact on children using the playground first thing in the morning. Similar points were made by Mr and Mrs Kauffman and Mr Chandni.

Having taken into account all of the evidence and submissions made, the decision of the Sub-Committee is to refuse the application.

We consider that the Old Dairy area already suffers with existing problems of anti-social behaviour. We saw evidence that the Asda car park (which neighbours the Premises and is part of the Old Dairy development) is a particular focus for anti-social behaviour and Cllr Tuckwell gave evidence that only last night there was a significant incident in the car park requiring a large police presence. There are no other comparable licensed premises either in the Old Dairy development or nearby which are open for licensable activities throughout the night. There is a 24-hour petrol station in the development, but this not licensed and is a very different kind of business. We were

also told that, as things stand today, Asda closes at 2300 Mon-Sat and 1700 on Sundays. Nando's also closes at 2300. Cineworld's closing times vary but it seems unlikely that they would remain open much later than 2300. Therefore we are concerned that, as the only venue open until 5am, there is a high risk that the Premises would act as a magnet for people who would not otherwise be drawn to the area. This could make worse existing problems of anti-social behaviour.

We do not accept that there are no residential properties opposite the Premises, as the Applicant contended. We are familiar with the layout of the development and agree with the Licensing Authority that the nearest homes are around 50m away from the Premises. Anyone driving to the Premises and parking in the Asda car park would pass very close to those homes. Although we are aware that planning permission was granted for a mixed-use development, including commercial and leisure uses, we consider that the area around Arla Place remains relatively quiet at night. Therefore we agree with the Licensing Authority that there is real potential for noise disturbance to residents of Arla Place from customers coming and going to and from the Premises late at night. In particular, we did not consider that the Applicant had a clear plan for dispersing customers leaving the Premises. We were told that members of staff were not instructed to go beyond the Premises' boundary to deal with incidents or to carry out litter picking due to safety concerns. There was no suggestion that door supervision would be deployed. Although we note that the outdoor dining area will be closed off, we consider there remains a risk that customers would linger outside the Premises, causing noise disturbance which would carry to the nearest properties. If dispersal is not being actively managed, they may then leave through the residential areas, causing disturbance as they go.

We agree with the Applicant's point that, beyond the immediate vicinity of the Premises, customers' behaviour is a matter of personal responsibility. However, this does not answer our concern that the Premises would draw people into the area at a sensitive time of night who would not otherwise be there. In any case, the "immediate vicinity", of course, is a matter of judgment for us. We also note that, for litter picking purposes, they were prepared to accept a fairly wide zone of responsibility – potentially extending as far as the playground. The Applicant had not carried out any consultation with local residents which, along with the way in which this issue was addressed by the Applicant during the hearing, struck us as dismissive of this important area of concern. We note the proposals to manage deliveries and that delivery drivers (including mopeds) would be routed to the rear of the Premises to a dedicated collection area. However, we also note the Licensing Authority's concern that these measures may not be watertight and that, in practice, drivers could congregate in and around the residential area, causing disturbance. It was not clear to us what the Applicant could or would do about that.

We bear in mind that planning permission has been granted for the Premises and the wider development. However, as the Chair pointed out, planning is a separate regime – and this sub-committee is under a clear duty to consider this application in light of the licensing objectives.

We also note that neither the Police nor Environmental Health objected to the application. However, the Licensing Authority did object and maintained their objection based on the public nuisance licensing objective, despite the Applicant's agreement to their proposed conditions 1-3.

We also considered whether granting the application subject to conditions would address our concerns. However, our objection to this application is fundamentally

about hours of trading which is not something that could be addressed by conditions. The Applicant did not propose, as an alternative, reducing licensable hours and explained the commercial reasons for seeking the hours in the application.

Licensing is prospective, in that we are concerned about the risks to the licensing objectives if the licence is granted. We are aware of the right of review, in case problems do materialise. However, we have decided that there is an unacceptable risk that the licensing objective of preventing public nuisance would be undermined if we were to grant this application. For the reasons set out above, we consider it is appropriate to refuse the application.

### **Right of Appeal**

The relevant applicant for the premises licence or any other person who made relevant representations to the application may appeal against the Council's decision to the Justices Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

You will be deemed to have received this decision letter, two days after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 10.00 am, closed at 2.15 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Ryan Dell at [democratic@hillingdon.gov.uk](mailto:democratic@hillingdon.gov.uk). Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

**The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.**