

**HEREFORDSHIRE COUNCIL**

**REGULATORY COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

<b>PREMISES</b>	McDonalds
<b>APPLICANT'S NAME</b>	Kemco Ltd
<b>APPLICATION TYPE</b>	New Premises Licence
<b>PANEL MEMBERS</b>	Councillor JW Hope (Chairman) Councillor RC Hunt Councillor BA Durkin
<b>DATE OF MEETING</b>	29 May 2012

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers plus additional papers that had been served on all parties present by the Licensing Authority.

Prior to making their decision, the Members heard a written representation from Mr Firth, a local resident and business owner who had been unable to attend the hearing as well as Mr Mooney and Chief Inspector Taylor, representing West Mercia Police, and Mr Evans, the applicant's legal advisor.

Having heard the representations and considered all of those matters brought before them, the Panel decided to **REJECT** the said application on the following basis:-

- The Sub-Committee has heard from both representatives of West Mercia Police and the applicant and it is mindful of the statistical evidence put before it by the police and comments made by the applicant upon it. The Sub-Committee appreciates that direct evidence concerning a premises which is not currently in late night operation must necessarily be scant. However it was clear that the police had presented a clear case of the levels of late night relevant incidents and relevant crimes in the area which it had considered.
- It is no reflection upon the management methods adopted by the applicants that this rejection is made. Rather, the Sub-Committee has needed to take a broader view and in particular consider the Special Cumulative Impact Policy at Annex 1 and in particular paragraphs A10 and A11. The Sub-Committee took the view that the applicant had not comprehensively demonstrated that granting the application would not add to extra problems in the area.
- While the point was not argued by either party the Sub-Committee notes that the premises is marginally outside the cumulative impact zone. However it is clear that any decision made by the Sub-Committee in respect of the premises would have an impact on the cumulative impact zone.
- Further the Sub-Committee considered the findings of H.H. Ouseley J. In *Luminar Leisure Ltd v Wakefield Magistrates' Court* and others in 2008, to be of significance as it was made clear that it would take into account issues remote from the premises if it was proved that these constituted to a cumulative impact on crime and disorder. The Sub-Committee, also with a view to the *Luminar Leisure* decision, considers it is a proportionate response to reject the application rather than to impose conditions, an option that it considered carefully.

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- It is with reference to Luminar Leisure at paragraph 16 of his Honours judgement it found the conclusions provided by the Police to be rational and evidence based.
- The Sub Committee compliments all parties on a clear expression of their case which it found of great assistance.

**APPEAL INFORMATION**

Under Schedule 5 Section 2, the applicant or any party making representation may appeal against the decision. Section 9 states that such an appeal must be made to the Magistrates Court within a period of 21 days from the date that the applicant is notified in writing of the decision.

Should you wish to appeal this decision then it is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford.