

## Decisions of the Licensing Sub-Committee

22 October 2019

John Marshall – Chairman  
Zakia Zubairi  
Linda Freedman

**1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):**

RESOLVED that Councillor John Marshal be appointed as Chairman.

**2. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY) (Agenda Item 2):**

None.

**3. LICENSING SUB-COMMITTEE HEARING PROCEDURE (Agenda Item 3):**

The Chairman explained the procedure that would be followed at the meeting.

**4. REPORT OF THE TRADING STANDARDS AND LICENSING MANAGER (Agenda Item 4):**

The Committee considered an application to review a premises licence for new Premises Licence – Papa John's, 152A East End Road.

**5. MOTION TO EXCLUDE THE PRESS AND PUBLIC (Agenda Item 5):**

**RESOLVED** that the parties be excluded from the meeting, together with the press and public, in accordance with Regulation 14(2) of the Licensing Act 2003. (Hearings and Regulations 2005).

**6. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION (Agenda Item 6):**

The Sub-Committee deliberated in private session, accompanied by the Officer from HB Public Law and the Governance Officer.

**7. RE-ADMISSION OF THE PRESS AND PUBLIC (Agenda Item 7):**

The Chairman noted that the Licencing Sub-Committee had made a decision and this would be made available to all parties within 5 working days. It was further noted that the decision would be published on the Council's website.

The Chairman gave thanks to everyone that had attended the meeting.

**8. DECISION OF THE LICENSING SUB-COMMITTEE (Agenda Item ):**

## **Decision on application for new Premises Licence – Papa John’s, 152A East End Road**

This is an application for a new Premises Licence made under section 17 of the Licensing Act 2003 in relation to Papa John’s Pizza, 152A East End Road, London, N2 0RY (“the Premises”). The application was made by Raheel Choudhary as director of PJ East London Limited (“the Applicant”).

The Premises are currently open until 23:00 Monday to Sunday. The application is for a new Premises Licence for the provision of late-night refreshment until 00:00 on Sunday to Thursday and until 01:30 on Friday and Saturday, and for non-standard hours ending at 03:00 on New Year’s Eve and New Year’s Day.

### **The application**

1. Following receipt of the application, the Licensing team received six representations from members of the public objecting to the application. The Licensing team subsequently received a statement from Mr Harris Sarwar (Area Manager for the Applicant) on behalf of the Applicant in response to these representations.
2. These six written representations objecting to the application were all from local residents. The representations were published with the agenda and so are not repeated in detail here. In summary they raised the following issues:
  - Customers hang around the Premises, and around the side or back of adjacent flats, at night, often drunk. The noise of these customers (talking loudly and in some cases playing loud music from their cars) disturbs nearby residents, including children, and prevents them from sleeping. Granting the application would mean this continued even later into the night.
  - Staff talk with each other loudly outside the front and back of the shop, again disturbing residents at night.
  - There is loud noise from the engines of delivery drivers’ vehicles.
  - There is loud noise from lorries during deliveries made late at night after the Premises have closed. The Premises’ alarm also sometimes goes off during these deliveries and the delivery workers do not know how to turn it off.
  - There is loud noise from the shutters when the Premises close at night.
  - There is loud noise from the Premises’ extractor fan while the shop is open.
  - Drunk customers vomit and urinate in these areas, including in the vicinity of the flats.
  - Rubbish is left in the vicinity of the Premises and the flats and is not collected by staff. This is a nuisance and also attracts rodents.
3. Mr Sarwar’s written statement responded to these issues and proposed steps that the Applicant could take to address some of them. The statement was published and circulated to the objectors in advance of the hearing; the objectors confirmed at the start of the hearing that they had had the opportunity to read the statement.
4. Councillor Claire Farrier, as Councillor for the ward where the Premises are situated (East Finchley), submitted a written statement objecting to the application in advance of the hearing. Although received in time, in error it was not published or circulated before the hearing. However, as it was very short, the Applicant and all other parties agreed that this statement could be included in the proceedings by

way of reading aloud by the Licensing Officer, and Cllr Farrier accordingly be permitted to speak. The statement read in full:

*“Residents of the flats above this property object to this application, due to the public nuisance, in particular noise and smells, that service hot food after 11pmm would cause. I hope that you have already received their objections, but could this be registered as an objection, and I would like to address the sub committee hearing as ward councillor.”*

5. The Sub-Committee heard from Elisabeth Hammond, Licensing Officer, who summarised the application. Ms Hammond drew the Sub-Committee’s attention to an error in the officer’s report: on the first page of the report (page 15 of the agenda reports pack), “outdoors only” should read “indoors and outdoors” as per the application form.
6. The Sub-Committee heard from Mr Sarwar and from Tyrone Curtis, the Regional Manager, who presented the application on behalf of the Applicant. Mr Sarwar repeated the comments made in his written statement and added the following further points:
  - The Applicant has asked its contractor to replace the shutter with a steel door version which should reduce noise.
  - The Applicant has asked its depot to rearrange deliveries so that they take place before 6pm, and asked that drivers park in the main road rather than the service road from where noise reaches the flats.
  - Regarding rubbish, the Applicant has a contract with a local provider to collect refuse twice a week, and also a contract to manage pest control.
7. Mr Curtis added that the applicant has worked with local residents to resolve issues, including replacing a previous extractor fan with a less noisy one and installing special mountings to reduce vibrations from the Premises to the flats above. He has given his phone number to local residents so that they can raise issues with him and has responded to their calls late at night. The Applicant will continue to work with local residents.
8. The Sub-Committee asked Mr Sarwar and Mr Curtis to clarify the arrangements for consumption indoors and outdoors. They explained that there is no outside seating; there are three stools inside but these are intended for waiting rather than eating, and customers are not encouraged to eat in the Premises. The majority of sales are for delivery rather than collection.
9. The Sub-Committee asked what staff do about the problems raised by the objectors. Mr Sarwar and Mr Curtis said that there are two sets of staff, i.e. in-store and delivery drivers, and the latter are given other tasks when not on the road. All staff are trained to handle people and deal with noisy customers and have previously succeeded in reducing noise, e.g. a manager recently went outside and successfully asked a customer waiting in a car to turn down his music.
10. The Sub-Committee heard from four of the residents who had made representations: James Munns, Bernard Gabony, John Richland and Carol Field.
11. Mr Munns repeated the comments in his written representation (with Franca Gross). He added that there is a shop next door that is open until 11pm and sells

alcohol and some of the noisy customers will have been drinking alcohol bought there. He also said that a single pizza box from the Premises, because of its size, can block up one of the bins in the vicinity, which adds to the litter problem, and that litter is left around the back as well as in front of the shop.

12. The Sub-Committee asked Mr Munns if there had been any complaints to the police about incidents near the Premises. He said that he had not made any.
13. Mr Gabony acknowledged Mr Curtis's efforts (having spoken to him on previous occasions), but maintained his objections. In response to Mr Sarwar and Mr Curtis's remarks in their statement and at the hearing, he said the following:
  - There is no certainty that any new shutters, even if quieter, will not still be noisy enough to cause disturbance.
  - The new extractor fan is still noisy – he can hear it from inside his flat.
  - The Premises are in a residential area where the majority of shops shut at 6pm.
  - Even if staff try to quieten customers, it will often be too late as they will have been noisy by the time they arrive at the Premises.
  - The Premises' CCTV only covers the inside and immediate exterior, not the areas around the back and sides where customers also go and make noise, urinate etc. He has received abuse from people in this area.
  - They cannot know that their current customers are all local to the area, as is said in Mr Sarwar's statement.
  - There is no guarantee that the Applicant will succeed in rearranging its deliveries for an earlier time.
14. Mr Richland reiterated his remarks in his written representation, adding that the delivery lorries have a further impact on noise by blocking the road and causing traffic jams. He echoed Mr Munns's comment about pizza boxes blocking nearby bins because of their size.
15. Ms Field reiterated the remarks in her written representation. She added that on one of the occasions when the alarm (which is very loud) went off during a delivery it kept sounding for around 45 minutes. She said that the noise made by Papa John's customers is so loud that she simply cannot stay in her sitting room. People who have been drinking in nearby pubs are attracted (the nearest pub is about five minutes' walk away). She echoed the other objectors' comments about overflowing bins, adding that the bins are not emptied every day, and also said that discarded pizza boxes had been left on her property, on top of her gatepost.
16. The Sub-Committee heard from Cllr Farrier. She echoed the other objectors' comments about the noise and the nature of the local area, and said there is also an unpleasant smell from the Premises. She said it would make no difference if the lorries delivering to the Premises and the vehicles delivering to customers used the main road instead of the service road – the noise would reach the flats either way. She said that the current opening hours are sufficient and later hours would cause further public nuisance.
17. The Sub-Committee asked Mr Sarwar and Mr Curtis for any further comments on behalf of the Applicant. They said that the delivery lorries' routes are set by Papa John's at corporate level so they have to work within those. They get two deliveries a week; a delivery takes 40 minutes at the most. But they can ask the trucks to

come earlier in the day, which would also let the deliveries get done more quickly as the Premises would be open and more staff would be available to assist. The Sub-Committee asked how many staff they have, and was told there are 16. Staff will ask nearby customers to keep noise down. As to litter, they said they would be happy to put litter bins outside the Premises at the Applicant's expense.

18. The Sub-Committee asked for any further comments from the objectors. Mr Gabon said that asking customers to be quiet will be too late if they have already made a noise and disturbed residents, and that he did not see how the Premises' staff could ensure that customers will be quiet, especially if they are drunk.

**The Sub-Committee found as follows:**

19. Having considered all the information attached to the meeting agenda and representations by all parties, the Sub-Committee considered its options under 11.19 to 11.23 of the Guidance and determined that the licensing objective of prevention of public nuisance would be undermined by the granting of the application but not to the extent that the application should be rejected outright. The Sub-Committee arrived at the following decision:

To grant the application as follows and with the following conditions attached:

- a) Opening times of 11:00 to 00:00, Monday to Sunday.  
Non—standard opening hours of 11:00 to 02:00 on New Year's Eve and New Year's Day
- b) Hours permitted for licensable activity (late night refreshment) of 23:00 to 00:00, Monday to Sunday.  
Non—standard hours of 23:00 to 02:00 on New Year's Eve and New Year's Day
- c) No deliveries to the Premises before 07:00 or after 22:00, Monday to Sunday.

20. The Sub-Committee noted the issues of noise and other nuisance that the objectors raised. While acknowledging that there are problems, particularly regarding late-night deliveries, the Sub-Committee did not consider that the evidence before it conclusively showed that all of these issues were caused by the presence of Papa John's (though some were) or would be exacerbated by the granting of its opening and licensable hours from 11pm to midnight. The road in question is a through road, and as there are an off-licence and a pub nearby, drinkers might gather in the area anyway.
21. The Sub-Committee also noted that there had been no representations from the police, nor any evidence presented of complaints to the police about any incidents relating to the Premises.
22. However, the Sub-Committee considered the Applicant's proposed closing times on Fridays and Saturdays would lead to disturbances at unacceptably late hours that would likely amount to a public nuisance.

23. The Sub-Committee concluded that the issues raised by the objectors, considered alongside the steps that Mr Sarwar and Mr Curtis had indicated the Applicant is taking, would on balance be proportionately addressed by granting the licence for the hours permitted by the Sub-Committee and with the above condition.

**Right to appeal**

24. Any party aggrieved with the decision of the Licensing Sub-Committee on one or more of the grounds set out in Schedule 5 to the Licensing Act 2003 may appeal to the Magistrates' Court within 21 days of notification of this decision.

**9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT (Agenda Item 8):**

None.

The meeting finished at 12:11