

## Decisions of the Licensing Sub-Committee

22 March 2022

Members Present:-

Councillor John Marshall  
Councillor Lachhya Gurung

Councillor Claire Farrier

### 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor Gurung be appointed Chairman for this Licensing Sub-Committee meeting.

### 2. ABSENCE OF MEMBERS (IF ANY)

None.

### 3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

None.

### 4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

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

### 5. REPORT OF TRADING STANDARDS & LICENSING MANAGER - PIZZA GO GO 12, HALLIWICK COURT PARADE, WOODHOUSE ROAD, N12 0NB

The Sub-Committee considered an application for a New Premises Licence, under section 17 of the Licensing Act 2003.

### 6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

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

Prior to exclusion, parties were notified that a verbal summary of the decision of the Sub-Committee would be provided and a written decision would be provided within 5 working days.

### 7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

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

### 8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE

## **DECISION OF THE SUB-COMMITTEE**

The Committee has considered an application for a new premises licence under the section 17 of the Licensing Act 2003.

The Sub-Committee carefully considered all the relevant information including:

- Written and oral representations by all the parties;
- The Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives;
- The Guidance issued under section 182 of the Licensing Act 2003;
- The Council's Licensing Policy; and
- Human Rights Act 1998.

The Sub-Committee hearing was held in person.

In making its decision, the Sub-Committee carefully considered the application and all written representations, as set out within the report and the verbal representations made at the hearing by the Applicant and the objectors present.

The Sub-Committee heard from the Licensing Officer who presented his report. the Application was submitted on 25<sup>th</sup> January 2022. The licensable activity applied for is the provision of late-night refreshment. The licensable hours applied for were Monday to Sunday from 23:00 until 05:00 am. The Premises is currently licensed, operating between Monday to Sunday between 23:00 to 01:00 hours for the provision of late-night refreshment.

Schedule 2 provides a definition of what constitutes the provision of late-night refreshment. It involves only the supply of 'hot food and hot drink'. The 2003 Act affects premises such as night cafés and take away food outlets where people may gather at any time from 11.00pm and until 5.00am.

The Licensing Team received 7 valid objections from local residents and one local ward councillor, two objectors were in attendance. A petition was drawn up by the residents, the licensing officer was made aware of this on 21<sup>st</sup> March 2022. One objector advised that it was received on 26<sup>th</sup> February 2022, and it was not in a readable/accessible format, the Licensing Officer spoke to one of the objector's on 21<sup>st</sup> March 2022 regarding the petition however the Licensing Officer advised would not have accepted the petition in any event as it did not meet the criteria for submitting representations. The objector had brought a physical copy to the hearing however the Sub-Committee could not consider this, as it did not meet the criteria.

On 8<sup>th</sup> February 2022, the Applicant had agreed a number of licence conditions with the Police, namely the installation of CCTV, Between the hours of 23:00 hours and 05:00 hrs the premises will not be open to the public. All service of late-night refreshment will be by delivery. Customers living close by wishing to collect in person must have pre-paid via online/ telephone purchase and collect at the door. Delivery drivers must not cause a nuisance to residents living in the area. Engines must be switched off when not in use and drivers must not cause any anti-social behaviour that has an adverse impact on people living nearby.

The Sub-Committee heard from the Applicant, he advised, he has been operating this business model for 15 years and had owned shops in the London Borough of Newham,

and this is his fifth shop. The Applicant purchased this Premises, which had previously sold pizzas.

The Applicant advised that there will be no alcohol on the premises to be sold, there would be one person working, who would be making the pizzas and up two moped drivers for deliveries. The orders will be received from Uber Eats, Just Eat or telephone. Customers would not be allowed to place orders at the Premises and there will be no facilities available for the patrons to eat on the Premises.

The Applicant further advised that customers had been requesting for the premises to open late. There are no issues with parking within the locality of the Premises.

***The Sub-Committee clarified with the Licensing Officer regarding the attendance of the Environmental Health Team at the Premises. The Licensing Officer advised that the Scientific Officer had not provided a formal report or had made representation in respect of the new premise licence however was aware that there have been visits by the Environmental Health Department, regarding the external extractor fan and the noise produced. The noise levels of the extractor fan according to the Scientific Officer was at 10, and the Applicant was advised to reduce the noise to level 8. The Applicant advised he reduced to the extractor fan to level 6.***

The first objector advised that he lives above the Premises. The objector advised that the previous owner used to switch off the fan night between 11pm-12am and was mindful that there are residents within the locality of the Premises. The previous owner had a licence which allowed the Premises to open until 1 am however it was not always open until 1am. The first objector further advised that the fan is left on for long periods in the night, which is now affecting his mental health as it is disturbing the sleep of the objector and his partner. There is a lot of noise coming from the mopeds. The objector advised that he seen an increase in rubbish being left behind the premises, whereas the previous owner had maintained the area.

They had reported this the Council however, last Wednesday (16<sup>th</sup> March 2022), the Scientific Officer from the Environmental Health team attended the Premises, he believed that the noise level was acceptable, the Applicant reduced the level of the fan however it went up when the Scientific Officer left the premises as he had been monitoring the noise levels using an app on his phone.

The second objector advised that her property is directly the Premises and is the leaseholder of the property, that she objected to the new premises licence as the extended hours would exacerbate the current issues that the residents are facing. At the times, the second objector advised that she could feel her kitchen vibrate and can hear conversations in the Premises until 4 am. The second objector further advised that she would hear from her bedroom shutters being pulled down in the early hours of the morning. Since the shop has been taken over by the Applicant the noise nuisance has escalated especially as the area where the Premises is located is a residential area. The second objector noted the difference in how the Premises was managed by the previous owners and the Applicant, the previous owner had developed and maintained a polite and mindful relationship with neighbouring tenants in respect of noise management.

The Applicant advised that he happy to install a new noiseless fan in the Premise and obtain a report for these works. The Sub-Committee queried with the objectors whether this would be sufficient to alleviate their issues surrounding the noise produced by the external fan. The objectors advised it would not be sufficient as the issues relating the

noise were not solely due to the fan. The second objector advised that her property is directly above the premises and on occasions can hear conversations emanating from the premises around 4am or hear conversations between the delivery drivers in the early hours of the morning and shutters being closed. The area is generally quiet after 11pm with minimal noise nuisance and due to the Premises, it is apparent where is noise coming from. The Applicant had advised that he had recently took over the Premises and was unfamiliar with the local residents but would make effort to engage with them in the future to address any issues relating to the Premises.

***The Sub-Committee reviewed the representations received from the objectors; the Applicant was asked why did residents report that the external fan was during various times in the early hours of the morning. The Applicant advised that he was unaware that the fan was operating between 1-4am, however he would discuss this with his staff members regarding switching off the fans once trading had ceased.***

***The Applicant advised that the purpose of applying for a late-night refreshment licence is that they have loyal customers, which they have a large customer base. The Applicant advised that area which the Premises is located at has a population of 45,000. Further to this they would not be able to sell on websites/apps such as Uber Eats or Just Eat unless they had a rating of 4 stars or above.***

***In summary, the Sub-Committee has considered all the representations made by the Applicant and the objectors, and after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives, in particular the prevention of public nuisance. The Sub-Committee has determined that it would be appropriate for the promotion of the licensing objectives to refuse the application for the provision of late-night refreshments from Monday to Sunday between the hours 23:00 to 05:00 am.***

*Right to Appeal*

***Any party aggrieved with the decision of the Licensing Sub-Committee on one or more grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the Magistrate's Court within 21 days of the date of this decision.***

**9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT**

None.

The meeting finished at 15.10pm