

# MINUTES OF LICENSING SUB-COMMITTEE

Monday, 3 April 2023  
(7:00 - 9:08 pm)

**Present:** Cllr Adegboyega Oluwole (Chair), Cllr Irma Freeborn and Cllr Mohammed Khan

## 7. Declaration of Members' Interests

There were no declarations of interest.

## 8. Licensing Act 2003 - Application for Late Night Refreshment: Pizza and Ice, 25 High Road, Dagenham, RM6 6PU

The Council's Licensing Officer presented a report in respect of a new premises licence application made by Mr Mohammed Nawaz for the premises known as Pizza and Ice, 25 High Road, Dagenham, RM6 6PU. The application sought a licence for the provision of late-night refreshment, including a delivery service, from Sunday to Thursday between the hours of 23:00 to 02:00 and on Friday and Saturday between the hours of 23:00 to 03:00.

A representation had been received from the Metropolitan Police Licensing Officer (MPLO) objecting to the hours being sought, under the Licensing Objectives of the 'Prevention of Crime and Disorder' and 'Prevention of Public Nuisance'. A representation was also received from the Licensing Authority Responsible Authority Officer (LARAO) under the Licensing Objective of 'Prevention of Public Nuisance'. Those objections sought a reduction in hours for late-night refreshments, which were Sunday to Thursday between the hours of 23:00 to midnight and on Friday and Saturday between the hours of 23:00 to 01:00. The LARAO submission also made reference to queries from the Council's Environmental Protection Officer relating to noise nuisance emanating from the premises, which the applicant had responded to by submitting a dispersal policy and additional conditions to be applied to the licence.

The Sub-Committee was advised that on 15 March 2023, the applicant's agent emailed the Council's Licensing Officer stating that the applicant was willing to amend the hours being sought for the provision of late-night refreshment as follows:

- Sunday to Thursday: 23:00 to 01:00
- Friday and Saturday: 23:00 to 02:00, with delivery only after 01:00. The shop would close to the public at 01:00.

It was noted, however, that the MPLO and the LARAO did not accept those revised times.

The MPLO, PC Dunn, then outlined the Police's objections to the application as follows:

- The premises sat within a residential area and the hours sought meant that

the premises would become a beacon for people to attend at a late hour throughout the week. Patrons of the nearby Eva Hart Public House were likely to congregate outside the premises, increasing the possibility of intoxicated individuals causing public nuisance for residents which could lead to additional crime and disorder taking place.

- Should the hours sought by the applicant be granted, it could act as a trigger for other premises in the area to apply for new / extended late-night refreshment hours into the early hours of the morning. Such circumstances would surely increase the likelihood of residents being adversely affected in terms of their sleep, with multiple venues trading and noise nuisance emanating from kitchen machinery and delivery vehicles coming and going.
- He was aware that residents had not objected to the application but felt that it did not mean they would not be affected, as it was sometimes the case that residents did not see or pay attention to the advertisement giving notice of the application.
- Whilst he was aware that the applicant operated a premises in another Borough, he was not aware of the details and felt that this was not particularly relevant to this application.
- Should the Sub-Committee wish to grant the application with the reduced and recommended hours, the Police would also like to see the conditions proposed in the Police's representation added to the licence.

In response to questions, PC Dunn stated:

- He acknowledged that the application was not seeking a licence to sell alcohol; however, it was seeking permission to sell late-night refreshment up to 2am, and therefore his objection was based on the potential for crime and disorder and public nuisance, as the premises were in a residential area and those hours were therefore not appropriate; and
- As far as he was aware, the Police had never been called in relation to issues arising at the premises since it opened in November 2022.

The LARAO, Mr Serdouk, then outlined his representation to the Sub-Committee as follows:

- There were residential properties above the premises in question, which made the hours being requested unsuitable due to potential for public nuisance, including noise emanating from the premises due to machinery, staff talking and delivery vehicles;
- As referred to by the Police, if the hours requested were granted, patrons of the nearby Eva Hart pub would be likely to attend the premises and congregate outside, causing public nuisance; and
- If the hours being sought were granted, the premises would be the only one in the locality to open so late. It would also make it very likely that other premises in the vicinity would apply to vary their hours in line with those times, greatly increasing the likelihood of public nuisance and even crime and disorder in the area.

The Applicant, Mr Nawaz, and his agent, Mr Hopkins, presented the case to grant the application for the hours stipulated in their counter-offer of 15 March, as follows:

- The premises benefitted from a car park at the rear, and Mr Nawaz was happy to instruct the delivery drivers to use this car park for deliveries during late hours, to eliminate noise emanating from vehicles at the front of the premises;
- Mr Nawaz opened Pizza and Ice in November 2022 and was open until 11pm. He had not received any complaints from residents, nor were there any issues around public nuisance or crime and disorder associated with his premises;
- Mr Nawaz had operated a premises in the London Borough of Newham successfully for five years, with late night refreshment being provided until 2am on Friday and Saturday and until 1am from Sunday to Thursday;
- Mr Nawaz understood that to operate a successful business it would not be wise upset local residents and he would do all he could to reduce public nuisance;
- The hours stipulated in Mr Nawaz's counter-offer were very reasonable and it was important to note that the premises would not be open to the general public on Friday and Saturday beyond 1am, as the last hour (to 2am) would be for deliveries only. Furthermore, Mr Nawaz had stipulated a number of conditions he would adhere to eliminate public nuisance and was willing to accept conditions 2 and 3 within the MPLO representation;
- Barking and Dagenham Council did not have a cumulative impact policy as part of its Licensing Policy, nor did it have a policy which stipulated blanket or 'framework hours' for this area. Therefore, the insinuation from the MPLO and the LARAO that premises seeking to operate beyond 1am in this area should automatically not be granted permission was not in line with licensing legislation or the Council's Licensing Policy;
- The argument that patrons from the Eva Hart pub would congregate outside the premises after it closed was entirely unpalusible as the Eva Hart closed at 1am, which was the same time Mr Nawaz's premises would close to the public;
- The views of the Environmental Protection Officer, which were appended to the Licensing Officer's report, did not amount to a formal representation. As there was no formal representation from Environmental Protection, who were the experts in noise nuisance, and the applicant had submitted a dispersal policy and agreed additional conditions to be applied to the licence, the Sub-Committee should give appropriate weight to those issues during its considerations; and
- Mr Nawaz had clearly demonstrated how he would uphold the Licensing Objectives as part of his application and at the hearing today and the objections from the MPLO and LARAO were based purely on speculation, with no evidence to support them. Furthermore, despite not a single resident objecting to the application or coming to see Mr Nawaz about his application, he had shown his willingness to work with the Police and Council by making a counter-offer. A reasonable approach would be to grant the application, as set out in the counter-offer, and for the responsible authorities to request a review of the application in future, if it was felt that Mr Nawaz's operation of the premises was contributing to public nuisance and/or crime and disorder.

In response to questions, Mr Nawaz and his agent stated that:

- The market had shifted since the Covid-19 pandemic, and there was more

demand for takeaways. The reason he was seeking these hours was to meet demand and make his business financially viable;

- If he felt that his business was contributing to public nuisance or crime and disorder, as a responsible businessman, he would take steps to reduce this, or even voluntarily close the premises earlier;
- Mr Nawaz had not personally raised his application with any residents, but this was not a legal requirement and even if he were minded to, he would not know where to start;
- Mr Nawaz could ensure that the delivery drivers took their vehicles to the rear car park by instructing them to do so or, if felt necessary, by making this a condition of the employment contract he issued to the delivery drivers or delivery company;
- He would ensure that staff were instructed not to converse loudly during late hours, since PC Dunn had just made him aware that this was the subject of a complaint in relation to a neighbouring business. However, it was important to note that complaints received in relation to another premises should have no bearing on the decision relating to Mr Nawaz's application; and
- It was acknowledged that delivery vehicles may emit some noise and, to alleviate this, Mr Nawaz would also instruct drivers to switch off their engines on arrival.

The Chair invited all parties present to sum up their representations before the Sub-Committee retired to make its decision.

Upon reconvening the meeting, the Legal Advisor to the Sub-Committee notified all parties of the decision.

## **Decision**

The Sub-Committee had listened to and considered all the representations both written and oral, as well as giving due consideration to all the relevant sections of the Council's Statement of Licensing Policy, Home Office Guidance and Statutory Guidance.

Applicants are expected to demonstrate in their operating schedule that suitable and sufficient measures will be implemented and maintained in the premises. The Sub-Committee had regard for the conditions volunteered by the applicant; however, it could not ignore the potential implications for public nuisance and crime and disorder if the premises was permitted to stay open as late as was being requested by the applicant. The premises is located in a primarily residential area and it was felt that late operating hours would have an adverse effect on the residents.

The Sub-Committee considered the applicant's proposed methodology for upholding the Licensing Objectives, however it felt that the operating schedule was insufficient to satisfy the Sub-Committee that the Licensing Objectives would not be undermined.

For those reasons, the Sub-Committee **resolved** to grant the premises license attached with the conditions listed on the application, and the operating and opening times for late-night refreshment as shown below:

- Sunday to Thursday: 23:00 to midnight
- Friday and Saturday: 23:00 to 01:00, with delivery-only after midnight.