

LICENSING SUB COMMITTEE

Monday 3 April 2023

Title: Licensing Act 2003 – Application for Late Night Refreshment: Pizza and Ice, 25 High Road, Dagenham, RM6 6PU	
Open Report	For Decision
Ward Affected: Chadwell Heath	Key Decision: No
Report Author: Karen Collier, Service Manager Public Protection	Contact Details: E-mail: Karen.Collier@lbbd.gov.uk
Accountable Strategic Director: Alison Stuart, Chief Legal Officer, and Interim Monitoring Officer	
Summary An application has been received from Mr Mohammed Asif Nawaz for a Late Night Refreshment premises license in respect of the premises known as Pizza and Ice, 25 High Road, Chadwell Heath, Dagenham, RM6 6PU. Two representations against the application have been received from Responsible Authorities, namely the Metropolitan Police Licensing Officer, and the Council's Licensing Authority Responsible Authority Officer. The matter is put to the Sub-Committee for determination at a public hearing, accordingly.	
Recommendation That the Sub-Committee considers this report and appendices together with any oral submissions given at the hearing and determines the application.	

1. Introduction and Background

1.1 The Licensing Act 2003 establishes the national licensing regime for the following licensable activities:

- The sale and supply of alcohol.
- The provision of regulated entertainment; and
- The provision of late-night refreshment.

1.2 Under this regime, the Council, as the local licensing authority for its area, is responsible for licensing premises to provide any of the licensable activities under a 'premises licence.' Where a premises licence includes the provision of late night refreshment is the sale of hot food and/or hot (non-alcoholic) drink whether for consumption on or off the premises (this includes mobile units and stalls) to the public between 11pm and 5am.

- 1.3 Applications for premises licences are subject to public consultation and consultation with a range of expert 'responsible authorities' named in the Act. It is open to any responsible authority or other person to raise concerns regarding an application as representations.
- 1.4 If no representations are received, the application is granted, subject to mandatory licence conditions and conditions reflecting the management controls proposed by the applicant under the operating schedule contained in the application. Where representations are received, the application becomes subject of a conciliation process. If conciliation is successful in finding an agreed, negotiated outcome, then the application may be granted subject to the agreements reached. If conciliation is unsuccessful, then the application must be determined at a public hearing by the Council's Licensing Sub-Committee.
- 1.5 When carrying out its licensing duties, a local licensing authority must have regard to:
- The Act and associated secondary regulations.
 - Guidance for local licensing authorities issued by the Home Office (current version published December 2022); and
 - The Authority's own Statement of Licensing Policy (current version published 2022 to 2027).
- 1.6 The Authority must also aim to promote the four licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.7 Premises licences generally continues for the life of the business or operation concerned but they may be called into review at any time by any one of the named responsible authorities under the Act or an 'other person.'

2. Matters for consideration.

- 2.1 On the 8th of February 2023 an application was received from Mr Mohammed Asif Nawaz for a Late Night Refreshment premises license in respect of the premises known as Pizza and Ice, 25 High Road, Chadwell Heath, Dagenham, RM6 6PU.
- 2.2 The application seeks late night refreshment from Sunday to Thursday between the hours of 23:00hrs to 02:00am and Friday & Saturday between the hours of 23:00hrs to 03:00am. The application also seeks to provide a delivery service. A copy of the application and plan is attached as **Appendix A**.
- 2.3 A map and premises photo is attached as **Appendix B**

3. The Representations

- 3.1 A representation was received from a responsible authority, namely the Metropolitan Police Licensing Officer under the Licensing Objective of the Prevention of Crime and Disorder and the Prevention of Public Nuisance. Taking the residents' welfare into account, the Police requested a reduction in hours to those proposed in the application. The representation is attached as **Appendix C**.
- 3.2 A representation was received from the Licensing Authority Responsible Authority Officer under the Licensing Objective of the Prevention of Public Nuisance. The objection also raises concerns regarding the operating hours and seeks a reduction in hours to those sought in the application. The representation is attached as **Appendix D**.
- 3.3 The Council's Environmental Protection Officer raised concerns regarding noise nuisance emanating from the premises and how this would be controlled. In light of this, the applicant submitted a dispersal policy and additional conditions were put forward. A copy of the dispersal policy and additional conditions from the applicant is attached as **Appendix E**.

4. Conciliation

- 4.1 No agreement has been reached between Responsible Authorities and the applicant in the reduction of hours.
- 4.2 On the 23rd of February 2023, the applicant's agent made a counter offer in the reduction of late night refreshment hours which can be seen as **Appendix F**
- 4.3 The Police Licensing Officer and the Council's Licensing Authority Responsible Officer do not accept the revised times as submitted by the applicant and can be seen as **Appendix G**.
- 4.4. Copy of Representative Agent of refusal of LO proposed Hours can be seen as **Appendix H**.
- 4.5 At time of writing this report, no conciliation has been reached between both parties.

5. Legal Comments

The Council has a duty as a Licensing Authority under the Licensing Act 2003 to carry out its functions with a view to promoting the following four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- The Protection of Children from Harm.

It should be noted that each of the licensing objectives have equal importance and are the only grounds upon which a relevant representation can be made and for which an application can be refused, or terms and conditions attached to a licence.

6. The Options open to the Sub-Committee

Having had regard to all relevant matters and taken all relevant information into account the Sub-Committee may decide to:

Option 1: Refuse the application.

Option 2: That the application be approved as requested, or subject to any conditions, restrictions, or reductions in the proposed application, which Members consider necessary for the promotion of the Licensing Objectives.

7. Consultation

The application has been advertised in accordance with the normal procedures. This includes a copy of a public notice being placed in a local newspaper, a similar notice displayed at the premises and information on the Council's website. Notifications have been provided to all responsible authorities and ward councillors.

8. Legal Implications

Implications completed by Simon Scrowther, Litigation Lawyer, Corporate Legal

The London Borough of Barking and Dagenham, as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature.

Appendices to this Report:

Appendix A – Application and Plan

Appendix B - Map and premises photo

Appendix C – Metropolitan Police Licensing Officer Representation

Appendix D - Licensing Enforcement Officer Representation

Appendix E – Dispersal Policy and Conditions from Agent and Copy of Environmental Protection Representation Appendix

Appendix F- Agent's Counteroffer email

Appendix G - Copy of refusal email

Appendix H - Copy of Representative Agent refusal of LO proposed Hours