

Minutes

LICENSING SUB-COMMITTEE

16 November 2020

Meeting held at VIRTUAL - Live on the Council's YouTube channel: Hillingdon London



	<p>Committee Members Present: Councillors Martin Goddard (Chairman) Lynne Allen Eddie Lavery</p> <p>LBH Officers Present: Neil Fraser, Democratic Services Officer Chantelle McLeod, Legal Officer Steven Dormer, Licensing Officer Lois King, Licensing Officer</p> <p>Also Present: Ward Councillor Ian Edwards</p>
32.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>All Members were present.</p>
33.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>
34.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items would be considered in public.</p>
35.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
36.	<p>APPLICATION FOR A GRANT OF A PREMISES LICENCE : JUST PIZZA PLUS, 206A FIELD END ROAD, EASTCOTE, HA5 1RD (<i>Agenda Item 5</i>)</p> <p>INTRODUCTION</p> <p>Steven Dormer, Licensing Officer, introduced the application for a premises licence in respect of Just Pizza Plus, 206A Field End Road, Eastcote HA5 1RD. The application sought approval for late night refreshment to enable the provision of hot food and drink after 23:00.</p>

Mr Dormer provided a brief summary of the representations received from Ward Councillors Edwards and Haggart on behalf of residents, as well as those submitted by Lois King of the Licensing Authority, as set out in the report. Mr Dormer concluded by setting out the recommendation that the application be refused.

By way of clarification, it was confirmed that the premises did not currently have a licence for late night refreshment, that the premises had been given a Five Star hygiene rating upon inspection, and that the applicant did not require a personal licence as no alcohol was to be sold at the site. It was also confirmed that the premises had come to the attention of the Licensing Team in September of this year, when Councillors had submitted Member's Enquires regarding the noise and nuisance issues experienced by residents.

THE APPLICANT

The applicant, Mr Khan, addressed the Sub-Committee alongside Mrs Khan and his representative Mr Panchal. The Sub-Committee was informed that documents detailing resident support for the application had been submitted on Friday 13 November. The Legal officer advised that these had been submitted late, and the Sub-Committee advised that they would consider whether to accept these late documents during their deliberation.

The applicant and Mr Panchal went on to confirm that Mr Khan had been in the industry since 2007, when he was a franchisee of a different pizza business. That business concluded sales at 11pm. As such, Mr Khan had been unaware that a licence was required to sell food after 11pm. During the pandemic, Mr Khan had noticed that a nearby pizza business, Village Pizza, was selling food after 11pm. Mr Khan then introduced such sales at his own business, Just Pizza Plus. Prior to this period, the business had ceased operation at 11pm.

Once informed by the Council that a licence was required, Mr Kahn stopped selling the food after 11pm, and submitted an application for a licence. Upon being informed that his submission was insufficient, Mr Khan then engaged the services of Mr Panchal's company, who supported Mr Khan through the submission of a second application.

Regarding the allegation of noise and nuisance, it was Mr Khan's submission that this was predominantly from patrons at Village Pizza, not Just Pizza Plus. Just Pizza Plus had adequate seating inside for collections, which meant that there was no noise from people waiting on the street. In addition, Just Pizza Plus had car parking at the rear, which reduced the noise from vehicles. It was suggested that the road itself was a busy one, which would result in vehicle noise in general. Deliveries could also be carried out from the rear of the shop, further reducing noise. Neighbours had since been contacted by Just Pizza Plus, the majority of whom had confirmed that they had no issues with the business.

It was submitted that Mr Khan had been running the business since 2013 without issue, and that these recent transgressions should not prevent him from continuing to run a business that supported local residents and key workers.

Regarding the requested opening hours, it was confirmed that the applicant was amending his application so that hours of operation would mirror those of Village Pizza, as set out in the report.

By way of clarification, Mr Khan confirmed that, upon receiving notice from the Council

regarding the breaches of Licensing and Covid regulations, the business had acted immediately to stop the breaches. However, it was accepted that Just Pizza Plus had not contacted the Council in response to their communications.

The Sub-Committee requested the approximate dates of when Just Pizza Plus had begun serving food after 11pm. The applicant advised that this was sometime in 2019. Regarding the evidence of serving a customer past the 10pm Covid curfew, Mr Khan advised that this was a mistake, and the staff member in question had been advised not to serve customers after 10pm in future. Mr Khan accepted that as business owner he had ultimate responsibility for the business.

Regarding the letters of support from residents, it was confirmed that these were not from residents for whom Mr Kahn acted as landlord.

RESPONSIBLE AUTHORITIES

Lois King, Principle Licensing Officer, set out the reasons for the Licensing Authority's objections to the application. It was confirmed that the objections related to concerns over the management's ability to uphold the Licensing Objectives, particularly the prevention of crime and disorder.

A summary of the breaches, as set out within the meeting papers, was provided. These included serving hot food after 11pm without a licence, and breaches of the Covid curfew law, and it was highlighted that such breaches had continued to occur after the Council had contacted the proprietors advising of their transgressions.

Allegations of antisocial behaviour resulting from operation of the business were outlined, and included noise and disturbance to residents due to vehicle and patron noise, including the use of mopeds. It was confirmed that Mr Khan's application submission had failed to address these issues within the operating schedule.

As a result, it was confirmed that the Licensing Authority had no confidence in the management's ability to operate the business in a responsible manner, and it was recommended that the application be refused.

By way of clarification, it was confirmed that the Licensing Authority was not aware of any issues with the business before the recent problems.

Ward Councillor Ian Edwards then addressed the Sub-Committee on behalf of local residents who had expressed concerns over the running of the business. Councillor Edwards confirmed that he had first been approached by residents on 12th July 2020, though subsequent email correspondence had shown that the resident had been in contact with the Council since 21st June 2020. Residents, including the Eastcote Residents Association, had expressed concerns that the business was causing public nuisance resulting from noise from the business late at night, which was seriously impacting resident sleep.

In addition, it was alleged that the business had continued to operate 'dark', when it had turned off shop frontages and lights, but had continued to serve food.

On the basis that the business had shown a repeated disregard of the law and Licensing Objectives, Councillor Edwards requested the application be refused.

DISCUSSION

During the discussion, it was confirmed that recent spot checks by Council officers at the premises had not shown any further breaches beyond those set out in the report.

The Sub-Committee referred to Just Pizza Plus' website, which stated that food was available for delivery until 3:30am. Mr Khan advised that this was incorrect, and that the website was 'closed' and orders unavailable after 11pm.

The applicant reiterated that their delivery drivers did not use mopeds, and that the complaints regarding noise and disturbance related to operation of the nearby restaurant Village Pizza, not Just Pizza Plus. It was reiterated that Village Pizza had less seating inside their premises, so patrons would often wait on the street, which resulted in noise. Just Pizza Plus conducted deliveries from the rear of the premises, where there was parking, and where it was quieter.

Regarding the breaches as outlined, Mr and Mrs Khan apologised for their mistakes, and advised that they had not been aware of the requirements of a licence to serve food after 11pm. They advised that such breaches would not reoccur, and advised that the late deliveries had only been instigated due to the downturn in business as a result of the pandemic.

The letters of support from residents were cited as evidence of local support for the business, but it was reiterated that these letters had been received outside of the window for submission of new supporting evidence, and so the Sub-Committee would rule on whether to accept these. Ward Councillor Edwards suggested that if the Sub-Committee was minded to accept the letters, then it should also accept the submissions of late objections from residents, at least one of whom had been told that their submissions could not be accepted due to lateness.

When asked how often Mr Khan was present at the business, Mr Khan advised the Sub-Committee that this varied. Often, he was present in the evenings, but as he lived above the restaurant, could be present as required. In his absence, a chef would manage the restaurant. If the application was granted, three staff would be employed in running the restaurant.

When asked on what training on how to uphold the licensing objectives had been provided to staff, Mr Khan advised that staff had received training on operation of the CCTV system, and how to act in an emergency or if there was trouble, i.e. shut the doors and call the police. In addition, staff had been advised to shut on time and prohibit conversations outside. Delivery drivers had been instructed to operate their vehicles quietly. In addition, Mr Khan had recently undergone security training and had received an SIA security licence.

The Sub-Committee asked Mr Khan how he would deal with late night patrons to the business who had arrived from nearby pubs, potentially intoxicated. Mr Khan advised that, if customers were behaving antisocially late at night, the business would be shut and the light turned off.

CLOSING REMARKS

Ward Councillor Edwards advised that the business had a proven track record of breaching Licensing conditions and causing public nuisance, and supported the objections from residents.

Lois King advised that the business had been shown to have breached requirements of the Licensing Act and Covid regulations, and had undermined Licensing Objectives,

particularly the prevention of crime and disorder. It was confirmed that the Licensing Authority retained concerns over the management's suitability to responsibly operate the business and uphold the Licensing Objectives.

Mr Khan advised that, following correspondence from the Council, action had been immediately taken to comply with instructions. Mr Khan reiterated that he had been in business since 2013, without previous issue. The SIA security licence obtained showed a willingness to securely manage the business, which the family relied upon. It was requested that the business be granted the licence, and if so, management would continue to work with the local community as a responsible business. For the breaches, the management apologised, though suggested that the allegations of noise and antisocial behaviour were not applicable to Just Pizza Plus. It was suggested that Ward Councillors could have visited the premises to discuss matters with the proprietors.

THE DECISION

The Sub-Committee considered all relevant evidence made available to it and in doing so took into account the Licensing Objectives, the Licensing Act 2003, Hillingdon's Licensing Policy, and Statutory Guidance.

In reaching their decision, the Sub-Committee paid particular attention to paragraphs:

- Licensing Objectives, Licensing Act 2003;
- Hillingdon's Licensing Policy, Paragraph 2.5, 9.1 and 9.7;
- Guidance issued by the Secretary of State under S.182 of the Licensing Act 2003 in particular paragraphs 8.48, 9.38, 9.42 to 9.44, and 14.19.

The decision of the Sub-Committee was to refuse the application for a Premises Licence for the following reasons:

1. Non-compliance with the Licensing Act 2003 and The Health Protection (Coronavirus, Restrictions) (No.2) (England) (Amendment) (No.5) Regulations 2020; the Sub-Committee had material concerns about the clear breach of both pieces of legislation, and placed significant weight on the applicant's continued non-compliance despite being made aware of their transgressions by the licensing authority. The Sub-Committee were of the view that this disregard of the law demonstrated that the applicant was unsuitable to hold a licence;
2. Public Nuisance; whilst the Sub-Committee heard oral submissions relating to public nuisance from both the applicant and the Ward Councillor, the Sub-Committee were not conclusively persuaded either way, given the conflicting evidence presented by both parties. The Sub-Committee noted that the business had been operating since 2013 without complaint, however, on balance considered that the late submission of representations in the form of residents' letters and objections inadmissible;
3. Management of the premises; the Sub-Committee felt that the applicant in his submissions had not demonstrated understanding of the licensing objectives or a clear plan of how to uphold them, and therefore did not instil any confidence as to how he was going to operate the business in observance of the objectives. The applicant was unable to sufficiently make clear in the application and in his representations the key elements of how the premises was intended to be run on a day-to-day basis, and how the operation would uphold and promote the licensing objectives.

RIGHT OF APPEAL

The relevant applicant for the premises licence or any other person who made relevant representations to the application may appeal against the Council's decision to the Justices Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The meeting, which commenced at 10.00 am, closed at 12.22 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Democratic Services - 01895 250636 or email: democratic@hillingdon.gov.uk. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.