

Runnymede Borough Council

Licensing Sub Committee

Tuesday, 12 September 2023 at 2.10 pm

Members of the Committee present: Councillors D Clarke, E Gill (Chairman) and J Wilson.

Also Present: Mr Khalid and Mr Sohani, applicants, an objector, a Ward Councillor, M Willingale, speaking on behalf of the residents, Mr R Smith, Senior Licensing Officer, Ms K Dutfield, Senior Environmental Health Officer, Mrs J Grant, Surrey Police Licensing Officer, Ms L Woodward, Solicitor for RBC and Miss C Pinnock, Democratic Services Officer.

In attendance: Councillor T Gates (Observer)

**1 Election of Chairman**

Councillor E Gill was elected as Chairman for the meeting.

**2 Declarations of Interest**

There were no declarations of interest.

**3 Procedure**

The procedure to be followed for the meeting was explained to all present. The Chairman also introduced the parties to each other and assured all parties that they would have an equal opportunity to present their case, ask and answer questions.

**4 Exclusion of Press and Public**

By resolution of the Sub-Committee, for the reasons set out in the agenda, the press and public were excluded from the determination of the application under Section 100A (4) of the Local Government Act 1972 on the grounds that the discussion would be likely to involve the disclosure of exempt information of the description specified in paragraphs 1, 2 and 3 the Schedule 12A to part 1 of the Act.

**5 Application for a variation to a Premises Licence**

Mr Smith, Senior Licensing Officer, was invited to present his report. This outlined the details of the application to vary the premises licence of Super Pizza in Chertsey.

The Sub-Committee was advised that the application for the variation to the premises licence held by Super Pizza concerned late night refreshment only as defined under the Licensing Act as 'involving the supply of hot food or hot drink between the hours of 23:00 and 05:00 hours to the public for consumption on or off the premises to which the public has access.'

Members noted that Super Pizza was a relatively small premises in Guildford Street, Chertsey. Currently it was in use as a takeaway and eat in premises containing one condition prohibiting retail trading (over the counter) after 23:00 hours, reducing late night refreshment to deliveries only. Its primary licensable activity was the provision of late night refreshment and the sale by retail of alcohol. The application to vary the premises licence would effectively remove the condition on over the counter sales to allow retail over the

counter and eat in until the existing closing times of the premises as set out in the report.

Mr Smith explained that two responsible authorities and six residents had submitted objections to the application. Members were cautioned not to take those objections relating to Planning into consideration and to focus only on those issues pertinent to the Licensing objectives. Members were also advised that some of the objections related to alleged incidents in the past for which there was no evidence that they were related to the premises in question.

It was confirmed that the applicants had not responded to any of the objections prior to the Hearing.

The Committee's attention was drawn to sections of the Council's Licensing Policy and relevant parts of the guidance issued under Section 182 of the Licensing Act.

The agenda bundle also contained full details of the objections, and recent photographs of the premises and its location.

There were no questions at this stage for Mr Smith. Therefore the applicants were invited to state their case.

Mr Khalid explained that the previous owner of the premises had led them to believe that the licence allowed them to engage in over the counter trade beyond 23:00 hours until closing time and they had been doing so until it had been pointed out to them by Mr Smith that it was in fact a breach of their conditions. Mr Khalid conceded that he should have been more diligent in this regard.

Mr Khalid stated that there had been no issues in the last year they had been trading; no-one had complained to them about any of the issues contained in the objections apart from the noisy exhaust on the extractor which had been upgraded with a silencer and filter at their own expense. There had been one issue with a customer raised by the Police which was described as a personal matter and quickly resolved.

Mr Khalid confirmed their premises was covered by CCTV and that this revealed no evidence of incidents connected with Super Pizza.

Mr Khalid stressed that they were keen to co-operate with the Police and other interested parties if there were incidents such as the one at the nearby Travelodge. Mrs Grant clarified that in relation to their application to vary the licence they had not liaised with the Police.

Mr Khalid, employee at the premises, spoke on behalf of Mr Sobhani, owner of the premises, due to language ease. Mr Sobhani understood English but was not so comfortable speaking it. Mr Khalid was asked whether there was much noise and/or litter generated by their customers. He replied that sometimes this occurred in the summer, but customers would be asked to wait inside the shop for their order to reduce this.

The Responsible Authorities were then asked to present their representations. Ms Dufield, Senior Environmental Health Officer confirmed that the basis of their objection was on the grounds of public nuisance, specifically the potential impact on residents from noise and litter, and noise and odour and light pollution. Ms Dufield agreed that the noise and odour problem had been resolved through the installation of the new equipment referred to in the applicant's submission.

There had been complaints about over the counter sales, which the applicant had already admitted.

In respect of the impact on residents, a map was tabled at the meeting, which identified all the residential properties in the area and public houses. Environmental Health were concerned about the potential for customers to congregate in the vicinity, given that Super Pizza was the only takeaway selling pizzas late at night. It was thought that patrons of the public houses would then move on to Super Pizza and cause a nuisance.

Environmental Health considered that the operating schedule as presented on the application did not demonstrate how the applicants intended to promote the licensing objectives with regard to the prevention of public nuisance, nor how customers would be managed and prevented from having a negative impact on residents.

Environmental Health then tabled a list of 6 conditions, which if the variation was granted, they would like to be attached to the licence.

Mr Smith confirmed that the applicants were more responsive than the previous owner and were keen to regularise their activities.

Surrey Police were then invited to present their objections to the variation of the licence.

Mrs Grant stated that the Police had two objections; the first was that late opening increased the potential for anti-social behaviour from late night drinkers frequenting the premises. She cited the closing times of nearby public houses and referred to the relatively modest size of Super Pizza and how this might also encourage anti-social behaviour. Mrs Grant also referred to the nearby ALDI car park where potentially customers might go to eat their pizzas. The Travelodge was also a hot spot for anti-social behaviour and noise which after hours could be reported to the Police.

Surrey Police considered that the operating schedule lacked the evidence to promote the licensing objective of the prevention of Crime and Disorder. To that end a list of 4 conditions was tabled which they would like to include if the licence was granted. However, their preference was for the application to be refused.

The Police were asked to produce evidence of reports of anti-social behaviour etc in the area. Three incidents were reported. These were a fight outside a local newsagents/off licence on 20 July 2023, a civil dispute at a restaurant on 27 May 2023 and an argument at a different restaurant on 1 March 2023. However, it was confirmed that none were connected to Super Pizza, nor did the Police attend on any of these occasions. There had been 12 telephone calls to the Police about Guildford Street, excluding calls about the Travelodge, none of which concerned Super Pizza. It was noted that crime and disorder reports were low and the Police wished to keep it that way.

Mr Smith asked how the delivery driver accessed the premises after 23:00 hours. Mr Khalid said that a door was unlocked for him to enter and collect the orders.

A local Ward Member was then invited to put forward objections received by residents. He stated that since the original licence had been granted in 2010, a significant number of additional residential properties were now in the immediate vicinity of Super Pizza and were suffering from the effects of noise, litter, anti-social behaviour and light pollution. The residents who had made representations felt there was a direct impact on them and the amenity. It was suggested that in addition to refusing the application, the licence itself should be reviewed.

It was suggested that residents had complained about Super Pizza to Environmental Health. However, when asked, Ms Dutfield confirmed that there had been no complaints in the last 9 months, and the last complaint was in May 2022, prior to the current owners of the premises.

Regarding capacity of the premises, Mr Smith said that a figure would be set on their fire safety plan. However, it would not be possible to attach a condition on capacity nor judge what a desirable number might be in relation to the size of the premises. He commented that a number of people congregating inside the premises could be problematic especially if alcohol had previously been consumed.

In his concluding remarks, Mr Smith thanked the applicants for engaging with the Licensing Section. He stated that the existing licence was rather old and attaching the suggested conditions might assist. With regard to the potential for light pollution, he suggested that the applicants could look to only have lighting in the kitchen and servery area to address residents' concerns.

Mr Smith confirmed that the Licensing Sub-Committee had no powers to instigate a review of the premises licence. A review would have to be evidence based. He stated that it was preferable to work with the applicants to avoid this happening.

The applicants were invited to make some closing remarks. Mr Khalid was very amenable to complying with the suggested conditions by both Environmental Health and Surrey Police, if possible, and agreed that the main reason for the application was to reduce delivery costs and having to employ a driver. He added that over counter sales post 23:00 hours was far cheaper, especially in the current economic climate.

With regard to the customers, Mr Khalid said that typically they were roadworkers and similar, it was very rare for someone to order Pizza having left any of the nearby public houses. The number of customers at any one time was mostly 1 – 2, occasionally between 5 and 6 people, who he felt could easily be accommodated inside when waiting for their orders. Mr Khalid confirmed that all the incidents of anti-social behaviour were unconnected with their premises or their customers.

Having established that no-one had anything else to add, the Chairman advised that the Sub-Committee would retire to determine the application and that although welcome to stay the applicants would be advised of the outcome within 5 working days of the meeting and of their right of appeal should they be unhappy with the decision of the Sub-Committee.

The meeting adjourned at 15:00 hours and re-convened at 16:05 hours.

The decision of the Sub-Committee having taken into account all the available information was to refuse the application on the grounds of the prevention of public nuisance, primarily noise from greater footfall, car doors slamming, passing cars and the impact on the local area. It was also considered that potentially more customers would lead to congregations of customers, loitering and waiting for their orders and then consuming them in the ALDI car park etc, which would have a negative impact on local residents.

The Sub-Committee considered that these issues could not be remedied by the suggested conditions, nor by reducing the hours/days of operation.

Officers from Legal would issue a decision notice accordingly.