

## LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public, held in the Council Chamber, LEWISHAM TOWN HALL, CATFORD, SE6 4RU on WEDNESDAY 14 JULY 2010 at 7pm.

### Present

Councillors Stamirowski (Chair), Councillor Bonavia (Vice Chair) Councillors Affiku, Griesenbeck, and Morrison.

Apologies for absence were received from Councillors Addison, Jeffrey and Daby.

### Neo Uno Bar and Grill 132 Sydenham Road SE26 5J2

Brian Pearson and Sharon Robinson (Applicants)

### Domino's Pizza 92 New Cross Road SE14 5BA

Mr Kara, (Applicant) Sgt Tracey Sharpe (objector)

### Deptford Food and Wine 38 Deptford Broadway SE8 4PQ

Mr Graham Harris (representing the Applicant), Mr and Mrs Sathiyaseelan and Sgt Tracey Sharpe (objector)

### Best Mowley's Fried Chicken, 21 Rushey Green, London, SE6 4AS

Kunalingham Kinatneeswaran (applicant) Mr Kyrke-Smith (representing the Applicant), Enforcement Officer (objector)

Minute No.		Action
1.	<u>DECLARATIONS OF INTEREST</u> There were no declarations of interest.	
2.	<u>MINUTES</u> The Minutes of the meeting of the Licensing Committee held on 10 June 2010, which was open to the press and public and which had been previously circulated will be considered at the next meeting of the committee.	
3.	<u>NEO UNO BAR AND GRILL 132 SYDENHAM ROAD SE26 5J2</u> – <u>NEW PREMISES LICENCE</u>	

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	The Licensing Officer	
3.1	The Licensing Officer said that this was a new application for sale of alcohol and regulated entertainment Sunday to Thursday Midday to midnight Friday and Saturday Midday to 2am regulated entertainment in this case was just recorded music.	
3.2	Representations had been made by residents based on potential for crime and disorder and public nuisance.	
3.3	One representation referred to noise issues the two weekends preceding the 16 June, licensing officers did not have a record of any licensed events on these dates and she suggested that the applicant might like to outline the circumstances during the two weekends.	
3.4	There was reference in another representation regarding planning permission stating that the premises had only A3 when this sort of premise may require A4 and also that there was a planning condition which prohibits the premises from trading after 23.30. She confirmed that this information was correct but she believed the applicant had spoken to the planning department and had been told that the current usage was adequate. Whilst any planning issues cannot be considered at this hearing she said that the applicant and his agent should be aware that should this licence be granted, any outstanding planning issues would have to be resolved to ensure lawful trading.	
3.5	The applicant had been made aware of this situation before the hearing and it had been suggested that the hours may be reduced to conform to the current planning restriction. She asked whether the applicant could clarify the hours he now wished to be considered or if he wanted to continue with the application as originally applied for.	
3.6	The Licensing Officer suggested that the applicant might like to modify the application so that it relates to the sale of alcohol only, Monday- Sunday 1200-2330.	
	The Legal Officer	
3.7	The Legal officer said the application was for a Premises Licence. She said the Committee would make its determination after they had heard from all parties and taken account of all relevant representations.	

- 3.8 She said that that the committee could:-
- grant the application, or
  - modify the conditions of the licence (this includes the power to omit or alter existing conditions and add new conditions) or
  - exclude a licensable activity from the scope of the licence or
  - refuse the application

- 3.9 She said that the committee would need to consider whether the decision was to give effect to the promotion of the four licensing objectives.

The applicant

- 3.10 Mr Pearson, said that he agreed to the modified hours as recommended by the licensing officer.

- 3.11 Mr Pearson said that he was the leaseholder of 132 Sydenham Road. The premises was a small restaurant catering for 24 patrons. They operate challenge 21, and young patrons are regularly asked for id. There is CCTV equipment operating for 31 days linked into the local police station.

- 3.12 Mr Pearson said that there would be low level background music. The licensing officer said that the applicant did not need a licence if the music was only low level background music as this was considered incidental and was not a licensable activity. Mr Pearson agreed to remove regulated entertainment from the application.

*Objectors*

- 3.13 There were no objectors present.

- 3.14 Councillor Peake asked how long food could be served in the restaurant. The Licensing Officer said that food could be sold until 11pm but patrons could stay until the premises closed.

- 3.15 Councillor Bonavia referred to the email in the agenda, it was from a local resident complaining about a lot of noise from the restaurant on two occasions early in June. Mr Pearson said that the complainant lived in the property next door to his premises. He said that she was referring to an opening day that he had held for family and friends to promote Neo Uno. Members of the public were also invited to taste the food and have a drink. There were so many people that there were many standing in the street. The complainant had been invited to the event but did not attend. Her tenant who lives in her property did attend. He said that there was noise on only one weekend.

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3.16 The Chair said that members could not ignore the petition and the residents who were unhappy with the noise from the establishment. Mr Pearson said that there had been a misunderstanding between the lead petitioner and himself. He had spoken to her about her concerns and she was now happy with the way the establishment was run and said that she should have spoken to him earlier. The Chair said that there were no objectors at the meeting and this may indicate that local residents did not have any further problems with the establishment.

#### Conclusion

3.17 Members withdrew to make their decision. During their deliberation they called upon the Council's legal officer to offer advice.

3.18 Once everyone had returned to the meeting the legal officer reported she had been asked to advise members on the steps necessary for them to give effect to the promotion of the four licensing objectives. She drew attention to the relevant provisions of the Licensing Policy and the Statutory Guidance including the relevant annexes relating to the appropriate Licensing Objectives.

3.19 RESOLVED that the application be granted subject to those mandatory conditions as specified in s.19 of the Licensing Act 2003, as modified by the applicant, so that it relates to the sale of alcohol only, Monday- Sunday 1200-2330

3.20 The Licensing Officer said the licence would be effective immediately and a letter would be sent out within five working days. Anyone who wished to appeal against the decision could appeal to Magistrates within 21 days of the date of the letter. She said the licence would be sent out in due course. Outstanding planning issues needed to be resolved to ensure lawful trading.

#### 4. DOMINO'S PIZZA 92 NEW CROSS ROAD SE14 5BA

The Licensing Officer

4.1 The licensing officer said that this application was for late night refreshment only from Sunday to Thursday until midnight and on Friday and Saturday until 1am. This particular application had been made by a premises which falls within the Cumulative Impact Zone (CIZ) within this Council's Licensing Policy, namely the New Cross Corridor. 13.24 of the guidance states that *'the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement'*

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4.2	As such the appropriate procedure was followed culminating in the revised policy statement including two CI zones within the borough, the New Cross Corridor and Blackheath Village. This was adopted by full Council in 2007 and has been in effect since the 1 November 2007.	
4.3	The police objection correctly relies on the evidence base that formed grounds for the policy to include this particular area and as such is accepted in its entirety. It does not in the circumstances have to prove an identifiable link with these specific premises.	
4.4	13.29 of the guidance clarifies exactly what effect the policy has, it states ‘ <i>The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives</i> ’	
4.5	The Licensing Officer reminded all parties that it was not the responsibility of the Police to prove that this activity would increase the problems in the zone but for the applicant to prove to the committee that the steps he was proposing would ensure that the activity applied for in no way adds to the problems in the zone. Although the evidence for the CIP in New Cross was mainly alcohol fuelled violence, there was considerable evidence in and around late night refreshment establishments and as such officers considered that this application should engage the policy.	
4.6	CCTV to be installed covering both the outside and inside of the premises had been given as condition by the applicant.	
	The Legal Officer	
4.7	The Legal Officer said the application was for a Premises Licence. She said the Committee would make its determination after they had heard from all parties and taken account of all relevant representations.	
4.8	<p>She said that that the committee could:-</p> <ul style="list-style-type: none"> <li>- grant the application subject to the conditions proposed by the Applicant, or</li> <li>- grant the application modify the conditions as Members consider for the promotion of the licensing objectives</li> <li>- refuse the application</li> </ul>	

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4.9 She said that the committee would need to consider whether the decision was to give effect to the promotion of the four licensing objectives.

Applicant

4.10 Mr Kara, a Director of Dominos Pizza, attended the meeting. He said that Dominos was a well known brand; no alcohol or cigarettes are sold on the premises. Their pizzas attract customers from a wide age range and home delivery represented 70-80% of the sales.

4.11 Mr Kara said that they had good managers in all 16 stores across the south east. There is only a small area in the shop for the public, but no seating area. On average, patrons spent between 10-15 minutes on the premises. Drivers employed for home delivery come and go to the premises.

4.12 Mr Kara said that the premises had CCTV camera, and managers work with all the emergency services. There was no evidence to suggest that any of their premises caused any problems for the local area. This could be confirmed by checking with the Police.

4.13 Councillor Peake asked when most of the pizzas were sold. Mr Kara said that 70% of dominos pizzas were sold in the afternoon. Their busiest period was between 6-9pm; at weekends their busiest periods lasted until 10pm. Although the premises were in the CIZ area, home deliveries did not add to the problems in the zone.

4.14 Councillor Morrison asked whether there had been any problems reported with regard to this establishment. Sgt Tracey Sharpe said that she had not had received any complaints.

4.15 The Chair said that if Mr Kara's premises were part of the Domino's franchise then presumably he would have to adhere to high standards. Mr Kara agreed, he said there were stringent standards to which he had to adhere.

Objector

4.16 Sgt Tracey Sharpe said that there was evidence of strong links between take-away hot food establishments and incidents of crime and disorder and public nuisance in a CIZ area.

4.17 The Licensing Officer asked the applicant if he thought home delivery only would be a problem if added as a condition and he stated that he thought that would be fine as that is the majority of orders at that time.

Conclusion

Minute No.		Action
4.18	Members withdrew to make their decision. During their deliberation they called upon the Council's legal officer to offer advice.	
4.19	Once everyone had returned to the meeting the legal officer reported she had been asked to advise members on the steps necessary for them to give effect to the promotion of the licensing objectives. She drew attention to the relevant provisions of the Licensing Policy and the Statutory Guidance including the relevant annexes relating to the appropriate Licensing Objectives.	
4.20	RESOLVED that the application be granted as modified so that it relates to home delivery only from 11pm to midnight Sunday to Thursday and 11pm to 1am Friday and Saturday.	
4.21	The Legal Officer said the condition offered by the applicant was considered by members to be sufficient to satisfy the Licensing Act 2003 and the Council's Licensing Policy particularly with regard to the licensing objective of the prevention of public nuisance.	
4.22	The Licensing Officer said the licence as applied for was granted with immediate effect but the actual licence would be sent out in due course. She said a decision letter would be sent within five working days.	
5	<u>Deptford Food and Wine 38 Deptford Broadway SE8 4PQ</u>	
	Licensing Officer	
5.1	The licensing officer said that this application was to vary an existing licence to increase the hours for sale of alcohol to 23hrs a day.	
5.2	She said that this application was also a premises which falls within the New Cross Corridor cumulative impact zone and as such the previous guidance, as set out in the previous application, applied.	
5.3	The Licensing Officer said that this application was for sale of alcohol and as previously mentioned the evidence base in New Cross is mainly alcohol fuelled crime and disorder and any increase in the availability of alcohol is a concern. Officers again consider that this application should engage the policy.	
5.4	CCTV to be installed and a proof of age scheme had been offered as conditions by the applicant.	
	The Legal Officer	
5.5	The Legal Officer said that this was an application to vary a premises licence to permit the sale of alcohol.	

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5.6	<p>The Legal Officer said that the committee could modify the conditions of the licence or they could reject the whole or part of the application.</p> <p>The applicant</p>	
5.7	<p>Mr Harris, licensing agent for the applicant Tharini Sathiyaseelan, attended the meeting. He said that Mr and Mrs Sathiyaseelan were the owners of the premises; a small convenience store on the corner of the New Cross corridor.</p>	
5.8	<p>There are four staff, three of whom have a personal licence. A personal licensee is always on the premises during alcohol trading hours.</p>	
5.9	<p>Mrs Sathiyaseelan owned the premises next door to the convenience store; it is a restaurant with a licence to sell alcohol Monday to Saturday 10am to midnight. Costcutters and other local establishments have 24 hour licences. Mr Harris said that with the applicant's current restricted trading hours she did not consider that she could compete competitively with other local traders.</p>	
5.10	<p>Mr Harris said that Mrs Sathiyaseelan had never experienced any problems at the premises. She was aware of the CIZ in the New Cross corridor and that she has to show that their application would not have an impact on the CIZ, but he considered that it was difficult to prove a negative. They were able to state that the premises were small and well run and only just within the New Cross Corridor. There was a need to consider each case on its merits.</p>	
5.11	<p>The Licensing Officer said that Costcutters and other local establishment had longer alcohol trading hours because they were granted before the CIZ which was established in 2007.</p> <p>Objector</p>	
5.12	<p>Sgt Tracey Sharpe, representing the Metropolitan Police, said that there was evidence of a high incidence of public nuisance and crime and disorder within the CIZ related to alcohol abuse and it was considered that the extension of this licence to sell alcohol in the area would exacerbate these problems.</p> <p>Conclusion</p>	
5.13	<p>Members withdrew to make their decision. During their deliberation they called upon the Council's legal officer to offer advice.</p>	



Minute No.		Action
5.14	Once everyone had returned to the meeting the legal officer reported she had been asked to advise members on the steps necessary for them to give effect to the promotion of the four licensing objectives. She drew attention to the relevant provisions of the Licensing Policy and the Statutory Guidance including the relevant annexes relating to the appropriate Licensing Objectives.	
5.15	RESOLVED that the application be refused.	
5.16	The Chair said that the committee understood the anomaly of situation in that other establishments in the area had 24 hour licences. However, members had taken into consideration the evidence from the metropolitan police that there was a high incidence of public nuisance and crime and disorder within the CIZ related to alcohol abuse and members agreed that the applicant had not demonstrated how the application would not add to the cumulative impact in the area.	
5.17	The Licensing Officer said a decision letter would be sent within five working days and the applicants had 21 days to appeal to the decision.	
6	<u>Best Mowleys Chicken 21 Rushey Green SE6</u>  Licensing Officer	
6.1	The Licensing Officer said that this application had been considered at the last meeting of this Licensing Committee. The meeting had been adjourned to allow outstanding work to be carried out to the premises. She said that she had received an email from the applicant stating that the duct works had been carried out. However, the Enforcement Officer had not had the opportunity to check that the work had been carried out as the e-mail had only been received late today	
6.2	The Chair said that members, at the last meeting of this committee, had agreed that work be undertaken to reduce noise nuisance for local residents.	
6.3	Mr Kyrke-Smith said that he had been away on business but work had not taken place during his absence. He said that the work had been completed and he now had paper and photographic evidence that the work had been done. He said that the complainant who lived in Flat 5 had moved out and a new tenant had moved in.	
6.4	The Chair said that enforcement officer needed to visit the premises and report back to this committee before the application could be granted.	

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6.5

RESOLVED that the hearing be adjourned until 10 August 2010.

The meeting ended at 20.30pm

Action

Chair