

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub Committee **Date:** 15 June 2021
Place: Virtual Meeting on Zoom **Time:** 10.00 am - 12.20 pm
Members Present: R Morgan (Chairman), I Hadley, J Jennings and A Lion

Other Councillors:

Apologies:

Officers Present: L Cole (Legal Services Officer), H Ibrahim (Licensing Compliance Officer), H Gould (Licensing Compliance Officer), A Hendry (Democratic Services Officer), R Moreton (Corporate Communications Officer) and L Kirman (Democratic Services Officer)

1. WEBCASTING INTRODUCTION

The Chairman made a short address to remind everyone present that the virtual meeting would be broadcast live to the internet and would be capable of repeated viewing, which could infringe their human and data protection rights.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Councils Members' Code of Conduct.

3. PROCEDURES FOR THE CONDUCT OF A VIRTUAL MEETING

The Sub-Committee noted the procedure for the conduct of business for this virtual meeting.

4. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business and the Terms of Reference.

5. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF PIZZA HUT DELIVERY, 21 THE BROADWAY, LOUGHTON, ESSEX, IG10 3SP

The three Councillors that presided over this application were Councillors R Morgan (Chairman), I Hadley and A Lion.

The Chairman welcomed Karen Hetherington, the Applicant and Naveed Syed the Area Manager. Also, in attendance was Ronan McManus, Essex Police Licensing Officer and Victoria Martinez and Judith Walker as objectors. The Chairman introduced the Members and officers present and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, H Ibrahim, informed the Sub-Committee that an application had been made by MSAJ Pizza Ltd for a new premises licence at 21 The Broadway, Loughton, IG10 3SP, the application is for a pizza delivery and take-away restaurant. The application was received on the 16th April 2021. The Operating Schedule set out conditions which would be attached to the licence if this application was granted.

The Responsible Authorities had received a copy of the application, it was also advertised at the premises and in a local newspaper. All residences and businesses within 150 metre radius of the premises were individually consulted.

The authority had received a representation from Loughton Town Council, Loughton Residents Association Plans Group and 3 representations from local residents. The objections related to the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Mr Ronan McManus of Essex Police Licensing Officer had agreed conditions with the applicant. The agreed conditions were for midnight closure Sunday to Thursday (both instore & deliveries) and shop doors closing at midnight, with home deliveries only until 01:00hrs (No customers in store 00:00-0100, telephone & online orders only) Friday and Saturday.

(b) Presentation of the Application

Karen Hetherington noted that they currently traded in the Debden area; they were looking to open an hour earlier, Monday to Thursday and for two hours on Friday to Saturday. They would only deliver to bona fide addresses from 00.00 to 01.00 Friday to Saturday only. They did not expect to have a lot of deliveries in these extra hours and wanted to compete with their local competitors. Mr Naveed Syed added that they had a business of about 14 stores each with their own risk assessment and were mindful that they had to look after their employees and the people around them.

(c) Questions for the Applicant from the Sub-Committee

A member of the Sub-committee noted that deliveries would only be delivered to bona fide addresses, how would this be defined. He was told that that they had a system in place to do this that verified the post code and address.

They then asked about a challenge 25 scheme and was told that they did not sell alcohol.

A Sub-committee member then noted that they said that they would not have a lot of extra deliveries during this extra time. He was told that they did not expect to have a lot more initially but it was just so they kept in line with their competitors. And only to certified addresses not to just anywhere.

A Sub-committee member noted that they had no competitors on Debden Broadway. He was told that they were situated within a mile radius of their shop, so it was considered as the same trade zone.

They were then asked about their competitors trading hours. They were told that the competition were trading until midnight so they would like to go one hour beyond this for Fridays and Saturdays to help with their market share. Hours on Monday to Thursday was to bring them into line with their competitors.

A Sub-committee member noted that Mr McManus (Essex Police Licensing Officer) had renegotiated the opening hours, had this been agreed? He was told that they had been.

(d) Questions for the Applicant from the Objectors

J Walker asked how many of their other stores had residents living above them. She was told that a lot of their stores were on high streets and that a lot of them were open until late.

V Martinez noted that during that extra hour their competitors were not open so they would get their custom. She was told that Debden was not a busy area and they were not expecting a lot of extra deliveries until their business built up.

V Martinez was concerned in the build-up in the volume of traffic in a residential area and was concerned that they would not be able to scrutinise the addresses ordered from. K Hetherington replied that they had a very specialised system to run the checks. It was not in their interests to deliver to a non bona fide address. Because of Covid they were struggling as a business and noted that if this did not work then they could revert back to their normal trading hours.

(e) Presentation from the Objectors

J Walker noted that families with young children lived above the shops there. 1am was too late to close when there would be noise from the motorcycle deliveries. The area was highly residential and in the warm summer months windows would be left open letting in more noise and impact on the residents.

V Martinez stated that she was representing the residents of Landmark House. Her objections were based on noise pollution and the unsociable hours asked for. And, in connection with the other establishments already open in the area they were concerned with creating a precedent for them and for having antisocial behaviour and for disturbances by people trying to get served after midnight. There was also concern about the increase in litter in the area and the increase in drug activity that was already present in the area. She was objecting on all four of the licensing objectives.

(f) Question for the Objector from the Sub Committee

A Sub-committee member clarified with the applicants if they were only asking for an extra hour and was told that the shop would close at midnight and they would do home deliveries on Friday and Saturday nights from midnight to 1am. The last customer in the shop could place an order at 10minutes before midnight.

(g) Question for the Objector from the Applicants

There were no questions from the applicants.

(h) Closing Statement from the Applicant

K Hetherington added that she did not want to alienate the local residents, as a business they were just trying to compete and did not want to put anyone at risk.

(i) Closing statement from the Objector

V Martinez commented that once the applicants have their licence then they had it forever. We did not need another layer of concern for the residents; this is very bad from our residents' point of view.

(j) Late Question from a Sub-Committee member to the Applicants

The Sub-committee asked about the delivery vehicles, where would they be parked, would they be managed in such a way as to keep the noise down to a minimum and also what about delivery drivers talking to each other late at night outside. Concerns were also raised about increased litter in the area. They were told that Pizza Boxes were very large, so they tended to be taken home. Also, they had a garage at the back of the premises and also had a car park there which they would use. There would only be one manager and one driver so there would not be too many people at the premises. The Sub-committee member asked if they had motorcycle deliveries by agencies. They were told that they had more car drivers than motorcycle and that they did use agency deliveries, but they used the car park.

The Sub-committee member commented that there was a need to keep an eye on this to minimise any disruption to residents especially after midnight and also on the litter situation. He was told that the shop could address the litter and perhaps do a litter pick in a designated area.

(k) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application.

During their deliberations the Sub-Committee received no further advice from the Legal Officer present. The Sub-Committee considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

RESOLVED:

The Sub-committee considered that the application satisfied the necessary requirements in order to be considered as it is on the prescribed form, it has been advertised and relevant notifications given.

The Sub-committee had taken into account the representations, the four licensing objectives and the Council's Licensing Policy.

The decision of the Sub-committee was that the application for a premises licence in respect of: PIZZA HUT Delivery, 21 The Broadway, Loughton Essex IG10 3SP, **be granted** subject to the following conditions which were considered to be reasonable and proportionate for the promotion of the licensing objectives:

1. The conditions consistent with the Operating Schedule as modified by the conditions which have previously been agreed between the applicant and R McManus, County Licensing Officer.
2. All doors to close at Midnight from Monday to Sunday with delivery orders only taken via phone or internet until 1pm on Friday and Saturday only.
3. The mandatory conditions contained in Sections 19 -21 of the Licensing Act 2003.

The applicants and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

6. THE FARMHOUSE ESSEX, NETHERHOUSE FARM, SEWARDSTONE ROAD, E4 7RJ

The three Councillors that presided over this application were Councillors R Morgan (Chairman), I Hadley and A Lion.

The Chairman welcomed Xen Andreou the applicant's agent. The Chairman introduced the Members and officers present and outlined the procedure that would be followed for the determination of the application.

(a) Application before the Sub-Committee

The Licensing Compliance Officer, H Gould informed the Sub-Committee that an application had been made by Teejay Asciak of Hungry Hampers Ltd. for a new premises licence at The Farmhouse Essex, Netherhouse Farm, Sewardstone Road, Waltham Abbey E4 7RJ.

The application of this Premises Licence seeks to carry on the following activities:

On and off sales of alcohol

Sunday – Thursday 09:00 – 23:00 and

Friday – Saturday 09:00 – 00:00

Opening Hours

Sunday – Thursday 09:00 – 23:00 and

Friday – Saturday 09:00 – 00:00

The previous licence at the premises had lapsed as the premises licence holding company, known as Farmfood Events Limited, entered liquidation on 18th February 2020; and the permitted time allowed under the Licensing Act 2003 to transfer the licence or apply for an interim authority had passed. Teejay Asciak was also the director of the previous licence holder company.

The application was received on the 6th May 2021.

(b) Presentation of the Application

Mr Andreou noted that they just released a revised plan of the application site which the Sub-Committee had recently received which set out the area the premises licence was to cover.

He commented that a lot of the objections received had been addressed by the added conditions suggested by the Essex Police Licensing Officer and the Council's Environmental Enforcement Officer. He noted that they had agreed to comply with the suggested conditions by the Essex Police Licensing Officer, and that a challenge 25 scheme be put in operation and that the records of any takeaway orders would be made available to the Police or the Council's officers if required; although there may be some difficulties with 'Just East' and 'Urber Eats'. Deliveries would be only to residential addresses given.

As for the conditions asked for by the Environmental Enforcement Officer, they had also agreed to them as set out. That is, all external windows and doors to be kept closed, other than for access or egress. Amplified sound shall not be audible at the boundary of the any noise sensitive premises. An appropriate noise control device to be used; no speakers shall be permitted outside the building and clear and prominent notices to be displayed asking customers to respect the needs of local residents.

These were mirroring the previous licence requirements. They wished to keep their neighbours happy in order to not have any complaints made to the authority.

As for the complaints raised by the current landlord, please treat this with caution as there was currently a dispute between the tenant and landlord.

This was a family business in a pleasant location for family parties and family gatherings, which was why they had asked to extend their hours over the weekend.

(c) Questions for the Applicant from the Sub-Committee

A Sub-committee member questioned the lack of an application for music. They were told that music, in this case, was incidental to alcohol sales and thus did not need to be on the application.

The Sub-committee member then asked how the music would be managed. He was told that it was incidental to the sale of alcohol and it was complementary. It would not overpower the event being held. This was for families and they would ensure it was not amplified beyond the boundaries, also a noise limiter would be used.

The applicant's agent was questioned about the area outside unit 9 where he confirmed the access points and the usable area outside there. He also confirmed that the doors would be closed so that no extraneous noise leaked out.

It was also noted that the outside dining area was not shown. The applicant's agent said that it would be situated outside the café and not outside unit 9. Alcohol to be provided inside the café only.

Asked how long the previous premises had been there the applicants agent said since October 2017, where they had some outside seating areas. The current outside seating areas were not marked on the plan and for this he apologised, it should have been more specific. These would be fixed tables and there would be no music.

Noting that unit 9 would be a function room the agent was asked how many people it could take, and would it be used for wedding receptions. He confirmed that it was for a maximum of 30 people and it could be used for small scale receptions. This was the same as the previous licence.

The Sub-committee voiced concern over nearby properties in that area as there were no natural noise barriers such as trees there and asked what sort of mitigation they had in place for the noise. The applicant's agent noted that the front boundary had a large tree and after that a main road which put some distance between them and the local residents. They would also have door management to keep the noise down and they would also have signs in place asking patrons to keep the noise down to a reasonable standard.

(d) Closing Statement from the Applicant

There was no additional statement from the applicant.

(e) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private session to consider the application.

During their deliberations the Sub-Committee received no further advice from the Legal Officer present. The Sub-Committee considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

RESOLVED:

The decision of the sub-committee was that the application for a premises licence in respect of: Hungry Hampers Ltd, The Farmhouse, Netherhouse Farm, Sewardstone Road, Waltham Abbey E4 7RJ **be granted** subject to the following conditions which were considered to be reasonable and proportionate for the promotion of the licensing objectives. And

1. The conditions consistent with the Operating Schedule as modified by the conditions which have previously been agreed between the applicant, Essex Police and the Environmental Enforcement Officer of EFDC referenced at pages 76, 77 and 78 of the licensing agenda, namely:
 - a) All take away orders to be made to the business online or in person;
 - b) Records of orders to be produced to Police or Council officers if required;
 - c) Age verification process at point of purchase;
 - d) Alcohol will not be delivered to any person other than at a residential or business address. It will not be delivered to persons in the vicinity or in a park, street or similar location;
 - e) At the point of delivery there must be age verification process in place (Challenge 25). To include any third party delivery services used;
 - f) A Challenge 25 scheme shall be operated;
 - g) All external windows and doors at the premises must be kept closed, other than for access and egress, whilst events involving amplified sounds are taking place;
 - h) Amplified sound from the licence's premises shall not be clearly audible at the boundary of any noise sensitive premises, so as to cause a nuisance;
 - i) An appropriate automatic noise control device must be used in any area in which regulated entertainment is occurring (i.e. music supplied for dancing/entertainment and not simply background music to create ambience), in agreement with the Local Licensing Authority. The device should be set so that the volume of any amplified sound emanating from the premises does not cause a public nuisance;
 - j) No speakers shall be permitted outside the building;
 - k) Clear and prominent notices shall be displayed within the car park requesting customers to respect the needs of the local residents and leave the premises and area quietly.
2. The mandatory conditions contained in Sections 19 -21 of the Licensing Act 2003.
3. In addition, the following conditions:

For the prevention public nuisance:

- The sale of alcohol on and off the premises Monday to Saturday 0900 to 23.00 and
- Sunday 0900 to 22.30
- To avoid public nuisance to residents living within the vicinity of the premises.

The applicants and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

CHAIRMAN