

**REPORT TO LICENSING PANEL SUB COMMITTEE.**

**CONSIDERATION OF APPLICATION TO VARY A PREMISES LICENCE  
UNDER THE LICENSING ACT 2003**

LICENSING PANEL SUB COMMITTEE: 20<sup>th</sup> January 2016.

OFFICER REPORTING: Steve Smith. Licensing Officer.

**A)THE APPLICATION**

APPLICANT: Mr Usman Naeem (Whitestone Maidenhead Ltd)

PREMISES: Papa Johns Pizza. Shop 5, Glynwood House, Bridge Avenue, Maidenhead, Berks. SL6 1RS.

The application relates to an application to vary an existing licence. The licence authorises late night refreshment only.

The existing licence allows for the sale of hot food until 23.30hrs on Friday and Saturday

The application is extending the business trading hours to 00.30hrs Monday to Sunday. With the terminal hour being 00.30hrs.

**B) RELEVANT REPRESENTATIONS**

Responsible Authorities:

a)Thames Valley Police.  
None.

b) Environmental Protection.  
None.

c) Fire Officer  
None.

d) Planning Officer  
None.

e) Child Protection Agency  
None.

f) Trading Standards.  
None.

g) Public Health.  
None.

h) Licensing.  
None

**Interested Parties.**

Please see attached objection from Mr David Howells, Planning Manager Shanly Homes.

There are no representations from any other party.

In accordance with the Licensing Act 2003 (Hearing) Regulations 2005.

As the local licensing authority under Hearing Regulations Schedule 11 (1) of the Licensing Act 2003. It has extended the time limit required for a hearing to take place.

We are required to ensure all interested parties have sufficient time to fully prepare evidence and therefore this measure was implemented in the public interest.

**C) IT IS CONSIDERED THAT THE FOLLOWING POLICIES HAVE A BEARING UPON THE APPLICATION.**

The following is taken from the Council's Licensing Policy:

The Council maintains that licensing is about the control of licensed premises, qualifying clubs and temporary events with the terms of the 2003 Act and any terms and conditions attached to licences will be focused on matters which are within the control of individual licensees and other granted relevant permissions, centring on the premises.

Licensing is not the primary mechanism for controlling anti-social behaviour away from premises and beyond the control of operators. However, it is a key aspect of such control and the licensing law is part of the holistic approach to the management of the evening and night-time economy in town and city centres.

The Council will only grant a licence or extend the hours of operating of an existing licence where this would not result in unreasonable disturbance to neighbours.

In considering the affect on neighbours, the Authority will take into account:

1. The nature of the activity
2. The character of the surrounding area
3. Measures for limitation of noise emissions from the premises. This may include as appropriate;
  - Noise limitation devices,
  - Sound insulation,
  - Whether windows are to be opened
  - The installation of acoustic lobbies
  - Double glazing
  - Measures to deal with queuing, where necessary
  - Use of outdoor areas

Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated Hackney Carriage/Private Hire firms, notices in the premises requesting customers to respect neighbours.

Winding down periods, particularly in public houses and night clubs, etc.

The licensing authority will normally expect to see proven protective measures included in the operating schedule. Applicants are encouraged to consider the measures set out in this policy and the schedule in forming their operating schedules.

#### **D) NATIONAL GUIDANCE.**

National guidance regarding public nuisance is as follows:

**2.18** The 2003 Act requires licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licenses and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

**2.19** Public nuisance is given a statutory meaning in many pieces of legislation. It is, however, not narrowly defined in the 2003 Act and retains its broad Common Law meaning. It is important to remember that the prevention of public nuisance could, therefore, include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole of the community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

**2.20** Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that windows and doors are kept closed after a particular time in the evening to more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of the specific premises. Licensing Authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

**2.21** As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions of other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing

authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

**2.22** Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

**2.23** Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

**2.24** Beyond the immediate area surrounding the premises, these are matters for personal responsibility of the individuals under the law. An individual who engages in anti social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exit of the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

## **E) OBSERVATIONS.**

The Sub Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- a) The prevention of crime and disorder;
- b) Public safety;
- c) The prevention of public nuisance
- d) The protection of children from harm.

In making its decision, the Committee is also obliged to have regard to national guidance and the Council's own Licensing Policy.

Of course, the Committee must have regard to all of the representations made and the evidence it hears.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the application as asked
- Modify the conditions of the licence, by altering or omitting or adding to them
- Reject the whole or part of the application.
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There are no further conditions offered in the operating schedule and all existing conditions will remain the same if the variation is granted.