

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub-Committee		Unclassified		

Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for (Dominos Pizza) 269 Bethnal Green Road, London E2 6AH Ward affected: Weavers
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1.0 Summary

Applicant: **A&A Pizza Company Ltd**

Name and **Dominos Pizza**

Address of Premises: **269 Bethnal Green Road
London
E2 6AH**

Licence sought: **Licensing Act 2003 – premises licence**

- **The provision of late night refreshment**

Representations: **Met Police
Environmental Protection**

2.0 Recommendations

2.1 That the Licensing Sub-Committee considers the application and representations then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Mohshin Ali
020 7364 5498

3.0 Background

3.1 This is an application for a premises licence for (Dominos Pizza) 269 Bethnal Green Road, London E2 6AH.

3.2 The applicant has described the premises as follows:
“THE PREMISES COMPRISE A DOMINO'S HOME DELIVERY STORE. THE VAST MAJORITY OF PIZZA ORDERS ARE HOME DELIVERED. THE REST ARE COLLECTED FOR CONSUMPTION OFF THE PREMISES. THE STORE IS ONE OF A TERRACE OF SHOPS, RESTAURANTS AND TAKE AWAYS ON A BUSY ROAD. THE LAYOUT COMPRISES A SMALL WAITING AREA FOR PIZZA COLLECTION BY THE PUBLIC, SHOP COUNTER, PIZZA PREP AREA AND OVEN, MANAGER'S ROOM, KITCHEN AND STOCK ROOM. THERE IS NO SIT DOWN EATING FACILITIES. HOWEVER, THERE IS A HIGH BENCH INSTALLED WITH STOOLS IN THE CUSTOMER AREA”.

3.3 A copy of the application form is enclosed as **Appendix 1**. The licensable activities and timings that have been applied for are as follows:-

The provision of late night refreshment (indoors and outdoors)

- Monday to Thursday, from 23:00 hrs to 01:00 hrs the following day
- Friday and Saturday, from 23:00 hrs to 02:00 hrs the following day
- Sunday, from 23:00 hrs to 01:00 hrs the following day

The opening hours of the premises

- Monday to Thursday, from 23:00 hrs to 01:00 hrs the following day
- Friday and Saturday, from 23:00 hrs to 02:00 hrs the following day
- Sunday, from 23:00 hrs to 01:00 hrs the following day

The applicant may wish to clarify if the above opening hours that have been applied for are correct.

4.0 Location and Nature of the premises

4.1 Photographs of the venue and immediate vicinity will be provided at the hearing.

4.2 The site plan of the venue is included as **Appendix 2**.

4.3 Maps showing the vicinity are included as **Appendix 3**.

4.4 Details of the nearest licensed venues are included as **Appendix 4**.

5.0 Licensing Policy and Government Advice

- 5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 1st November 2013.
- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in March 2015.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

6.0 Representations

- 6.1 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:
 - The Metropolitan Police (**See Appendix 5**)
 - Environmental Protection (**See Appendix 6**)
- 6.2 All of the responsible authorities have been consulted about this application. They are as follows:
 - The Licensing Authority
 - The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise (Environmental Health)
 - Trading Standards
 - Child Protection
 - Public Health
- 6.3 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm

- 6.4 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application they will meet the prevention of crime and disorder and the prevention of public nuisance.
- 6.5 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.
- 6.6 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

7.0 Conditions consistent with Operating Schedule

- 7.1 *We will not countenance the use or supply of illegal drugs and our staff will inform the police immediately of any such suspected actively on or in the vicinity of the store.*
- 7.2 *Our doors and windows will be kept closed at night to prevent transmission of noise.*
- 7.3 *Music will not be played in the premises.*
- 7.4 *Our delivery drivers are instructed to enter and leave their vehicles quietly and considerately, not to leave engines running, to park considerately and at all times to have in mind our neighbours (particularly residential occupiers).*
- 7.5 *We would have no hesitation in banning people who visit the store and regularly leave the premises in a noisy fashion.*

8.0 Conditions in consultation with the Responsible Authorities

- 8.1 None.

9.0 Licensing Officer Comments

- 9.1 The following is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

9.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
- ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
- ❖ Mandatory conditions must be imposed (10.27) and censorship avoided (10.17).

❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.60) Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)

- 9.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 9.6 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 9.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.8 In **Appendices 7 - 12** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.

10.0 **Legal Comments**

10.1 The Council’s legal officer will give advice at the hearing.

11.0 **Finance Comments**

11.1 There are no financial implications in this report.

12.0 Appendices

Appendix 1	A copy of the premises licence application
Appendix 2	Site Plan
Appendix 3	Maps of the surrounding area
Appendix 4	Other licensed venues in the area
Appendix 5	Representation of the Metropolitan Police
Appendix 6	Representation of Environmental Protection
Appendix 7	Licensing Officer comments on noise while the premise is in use
Appendix 8	Licensing Officer comments on access/egress Problems
Appendix 9	Licensing Officer comments on crime and disorder on the premises
Appendix 10	Licensing Officer comments on crime and disorder from patrons leaving the premises
Appendix 11	Planning
Appendix 12	Licensing Policy relating to hours of trading