

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in County Hall, Durham on **Tuesday 8 October 2019 at 10.00 am**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors C Hampson and M Wilson

Also Present:

Councillor Liz Brown

Yvonne Raine – Senior Licensing Officer

Stephen Buston – Solicitor, DCC

Sgt Caroline Dickenson – Durham Constabulary

PCSO Michelle Williamson – Durham Constabulary

Mr Eshan Teymouri – Applicant

Mr Tim Robson – TJR Licensing, on behalf of the Applicant

Councillor Derek Hicks – other person

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Variation of a Premises Licence - Derwentside Pizza, 29 Front Street, Consett

The application was withdrawn.

5 Application for the Variation of a Premises Licence - Golden Pizza, 40 Front Street, Consett

The Committee considered a report of the Corporate Director of Regeneration and Local Services which asked the Sub-Committee to consider an application for the variation of a Premises Licence in respect of Golden Pizza, 40 Front Street, Consett (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members.

Yvonne Raine, Senior Licensing Officer presented the report and following questions advised that the premises currently held a late night refreshment licence on the day of each Bank Holiday. The Premises Licence had been granted by Durham County Council in 2013.

Sgt Caroline Dickenson addressed the Sub-Committee in objection to the application on the grounds of the licensing objectives of crime and disorder and public safety. Golden Pizza was located on Front Street, an area with a high density of late night drinking and refreshment premises. There were 16 licensed premises in the locality. Between 1 November 2018 and 16 July 2019 there had been 63 offences of assault ranging from common assault and battery up to the most serious offences where significant life changing injuries had been inflicted. The greatest proportion of these offences took place between 19.00 hours and 04.00 hours and a large number of these were tagged with an alcohol marker.

There was a culture of late night drinking in Consett and the Police believed that granting a late night licence to 05.00 hours would hold people on the street for longer.

The Framework Hours in the DCC Statement of Licensing Policy were 01.00 hours during the week and 02.00 hours on a weekend. As the premises was only required to be licensed between 23.00 hours and 05.00 hours, they were effectively permitted to operate 24 hours. This would impact upon local residents. The night time economy would clash with the daytime economy. This would raise issues of public safety as road users started to mix with late night revellers.

The Licence Holder had applied for planning permission in 2012 which had been granted with a condition which stipulated that the premises should not be open outside the hours of 11am to 02.30am Monday to Saturday and 11.00 hours to 01.00 hours on Sundays. The Local Planning Authority in their representations had requested that the applicant be advised to contact the Planning Department to discuss, Sgt Dickenson advised that to date Mr Teymouri had not made contact.

The Officer considered that this showed a disregard of the need for planning permission which had previously been refused for 04.00am due to the impact on residents.

Following a question from Councillor Carr, Sgt Dickenson advised that Golden Pizza had not been the subject of a test purchase at the time when other premises in the area were tested as it was closed.

Councillor Hicks addressed the Sub-Committee on behalf of local residents against the application. The Councillor stated that residents were already troubled with noise disturbance and light pollution. The Police did not have the additional manpower needed if the additional hours were granted. Most residents in the locality worked or were carers. There would also be an impact on resources for street cleaning.

The Member read out a statement from Councillor Watson who had apologised for not being present. The Councillor received regular complaints about food waste and litter in the streets. An extension to the hours would exacerbate an already serious problem. He strongly objected to the application.

Tim Robson addressed the Sub-Committee on behalf of Mr Teymouri. He explained that he was aware of the issues in Consett, but stated that Mr Teymouri always closed his premises on time; other premises had not and had failed test purchases.

Addressing the representations of the Police Mr Robson noted that the incidents of assault, crime and disorder and anti-social behaviour were fuelled by alcohol, and that although Mr Teymouri did not sell alcohol individuals visiting his shop could be affected by it. However there was no evidence that the assaults emanated from Golden Pizza and the application should be looked at on its own individual merit.

Mr Teymouri had never operated 24 hours and had opened at 11am on one occasion because of a local event. He normally opened the premises at 5pm. There were other premises in Consett that were open longer than the hours requested by Golden Pizza.

Mr Robson continued that the body diffused alcohol differently in the early hours of the morning. The consumption of food ancillary to alcohol reduced the impact of alcohol on the body, and also less noise was created when food was being consumed. Whilst he understood the concerns of residents expressed by Councillor Hicks and Watson, there was no evidence to support that there would be an increase in disturbance or disorder if the application was granted.

Environmental Health Officers, who were part of the consultation with the Nuisance Action Team, had not made representation.

Public Health and Durham LSCB had not made representation. Under 16s would not be allowed in the premises after 22.00 hours unless accompanied by an adult.

The premises was covered by 18 CCTV cameras, 6 of which were positioned outside giving excellent coverage and scope.

Options available to the Sub-Committee included the addition of conditions or amendment of hours. Mr Teymouri sought a licence until 05.00 hours but would accept 04.00 hours if deemed necessary, however he reminded Members that he always closed on time and abided by the law. His staff were well-trained and over 18. Consett would benefit by the shop being open until this time, and was not the first premises to open until 05.00 hours. He urged Members to deal with the application on its individual merits.

Mr Teymouri added that he would provide CCTV footage to the Police and Licensing Authority when requested. The nightclub was open until 04.00 hours.

Councillor Carr asked why Mr Teymouri had not made contact with the Planning Department. Mr Robson stated that although he could not explain why this had not been pursued by his Agent, Mr Teymouri now appreciated that a planning application was required to vary existing conditions.

Following a further question from the Member, Mr Teymouri advised that he employed a Manager but he was present to open and close the shop at all times, with the exception of one week per year when he was on holiday.

Councillor Carr asked why Mr Teymouri had requested 05.00 hours on Thursday and Sundays. Mr Robson explained that licensed premises in the area were open until 04.30am but that a terminal hour of 01.00 hours on these days would be accepted if deemed necessary.

Sgt Dickenson noted that the current licence stated that CCTV footage would be retained for 31 days, yet the application stated 28 days. She also noted that the existing Premises Licence discouraged unaccompanied children in the premises at all times.

Mr Robson advised that in respect of CCTV footage the Applicant would be willing to amend the application in line with the current licence. With regard to children, he explained that the culture had changed and children stayed out later. In addition the theatre was nearby and as Christmas approached

pantomimes would attract a younger element later in the evening. The Applicant wished to cater for this by allowing children under the age of 16 in the shop after 10pm if they were accompanied by an adult. Mr Robson made the point that any person over 16 could legally enter premises which sold alcohol and purchase soft drinks. This was a fast food establishment and what was requested was reasonable. The application would modernise the business to accommodate changes in the environment and culture.

Sgt Dickenson asked why reference had not been made to the proposed changes to existing conditions within the application at page 63 of the Bundle. Mr Robson explained that the application form asked for a brief description, and the conditions were listed later on the form. The Senior Licensing Officer confirmed that the application form requested a brief description but that it was usual for the applicant to highlight changes to existing conditions or additional conditions.

Councillor Hicks stated that he had listened to the arguments of Mr Robson but he remained concerned for residents who had said that they were unable to get their rest at night. Food may be help to reduce noise but this added to the problems of litter in the street.

Councillor Carr asked if the licence holder litter-picked. Mr Teymouri confirmed that he and his staff kept his premises clean and well looked after. He picked litter to the rear and in front of his shop and added that not all litter in the area was from his premises but from other takeaways in the locality.

At 10.55am the Sub-Committee **resolved** to retire to deliberate the application in private. After re-convening at 11.25am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had taken into account the report of the Senior Licensing Officer, the written representations of Responsible Authorities and the verbal representations of the Applicant and Mr Robson, Sgt Dickenson and Councillor Hicks who also spoke on behalf of Councillor Watson. Member had also taken into account the Council's Statement of Licensing Policy and the Section 182 Guidance issued by the Secretary of State.

Resolved:

That the application to vary the Premises Licence be granted in part and subject to conditions as follows:

Activity	Days & Hours	
Opening Hours	Sunday to Thursday Friday to Saturday	12.00 to 01.00 hours 12.00 to 02.30 hours
Late night refreshment (including delivery service)	Sunday to Thursday Friday to Saturday	12.00 to 01.00 hours 12.00 to 02.30 hours

The prevention of crime and disorder

- 1) CCTV cameras shall encompass the inside and outside of the main entrance and exit to the premises and any place inside the premises where members of the public have access.
- 2) CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions and kept for 28 days.
- 3) The Premise Licence Holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage onto hard drive or memory stick provided to the police/local authority within a reasonable timescale agreed between the Officer and appointed person.
- 4) Equipment must be maintained in good working order, be correctly time and date stamped.
- 5) The CCTV system will incorporate a battery backup system to enable 24-hour continuous recording in case any power blackout/failure.
- 6) The recording equipment and discs/memory sticks shall be kept in a secure environment under the control of the appointed named individual.
- 7) An operational weekly log report must be maintained and endorsed by a signature, indicating the system has been checked and is compliant; in the event of any failings actions taken are to be recorded.
- 8) The Premise Licence Holder is to undertake right-to-work checks on all staff who are employed at the licensed premise in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises.

These documents will be made available to officers and responsible authorities when requested.

- 9) If deliveries are to be made, then all persons delivering products from the premises must have the correct insurance for their vehicle which includes 'hire & reward'. The premises will ensure that these documents are provided and checked before employment commences, held on site at all times the premises are open for business and made available to Durham Constabulary and Relevant Authorities on request.

Public Safety

- 10) Fire exits and fire equipment clearly marked.
- 11) All staff must be aware of requirements regarding health and safety.
- 12) First aid facilities will be available.
- 13) An incident log will be kept at all times.
- 14) The Premise Licence Holder will ensure delivery drivers and staff will adhere to all parking restrictions in the area i.e. no waiting on yellow line during permitted times or no parking in disabled bays unless a valid badge holder is with the vehicle.
- 15) A rubbish bin will be located just inside the doorway of the premises for the use of customers.
- 16) Staff will carry out regular checks outside the premises during opening hours and immediately after closing to ensure rubbish relating to the premises is not accumulating. Any rubbish found will be cleared away.

The protection of children from harm

- 17) No children under 16 years will be allowed on the premises between 22.00hrs and closing time if they are not accompanied by an adult.

6 Application for the Variation of a Premises Licence - Consett Kebab, 66 Front Street, Consett

The application was withdrawn.

7 Application for the Variation of a Premises Licence - Supreme Takeaway, 40a Front Street, Consett

The application was withdrawn.