

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - Council Offices, Spennymoor on **Monday 28 November 2011 at 10.00 am**

### **Present:**

**Councillor C Carr (Chair)**

### **Members of the Committee:**

Councillors P Charlton, A Hopgood, J Hunter and J Wilkinson

### **Apologies:**

There were no apologies for absence

### **Also Present:**

C Greenlay – Solicitor

H Johnson – Licensing Team Leader

S Amin – Applicant, Urban Oven

R Bell – Barrister, Urban Oven

Mr Amin – Urban Oven

K Ryder - Architect, Urban Oven

J Ashby – Local Resident, Urban Oven

S Aljumaily - Applicant, Deniros Pizza Shop

Mr Dahar - Deniros Pizza Shop

Mr and Mrs Tighe – Interested Party, Deniros Pizza Shop

Sgt Tim Robson – Durham Constabulary, Deniros Pizza Shop

### **1 Declarations of Interest (if any)**

There were no declarations of interest received.

### **2 Minutes of the meeting held on 7 September 2011.**

The Minutes of the meeting held on 7 September 2011 were agreed as a correct record and were signed by the Chair.

### **3 Application for a Premises Licence, Urban Oven, 94 Claypath, Durham City**

**Members: Councillors C Carr (Chair), P Charlton, J Hunter**

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for a new Premises Licence in respect of Urban Oven, 94 Claypath, Durham City, a copy of which had been circulated.

Mr Newton an Interested Party advised that he was unable to attend the meeting but asked that additional information be circulated to members.

Rosalind Bell the Barrister acting on behalf of the Applicant indicated that the business was family run which wanted to trade too early in the morning as other restaurants in Claypath were open until late. She circulated additional information which included fliers from restaurants in the vicinity which advertised late opening hours.

She referred to the petition that had been submitted in support of the application to increase the hours and that this area of Claypath was more commercial than residential which was busy in the evening. She went on to say that residents who lived above the premises supported the application and were on good terms with the staff and used the facilities and the landlord had raised no objections.

She advised the panel that her client agreed with the conditions and would locate a bin outside the premises and would pick litter up in the immediate vicinity as well as washing the pavement with disinfectant outside.

The Barrister referred to the objection from Mr Newton in particular his statement which indicated that other takeaways in Claypath were not open until 3.00 am. She advised the Panel that her client wanted the extension to bring him in line with other takeaways in Claypath which suggested that Mr Newton had not suffered from noise.

Members sought clarification on the area in Claypath which was residential properties other than students and where the next nearest takeaway was located and where the delivery vans would park.

In response, Members were advised that residential properties were located in the upper part of Claypath and the next takeaway was 2 doors away and that delivery vans would park in the car park next to the Jug Public House.

The Architect also advised the Panel that the extractor duct located inside the building was well insulated as the structure of the building was for commercial use downstairs and residential use upstairs.

The Barrister referred to planning being separate to Licensing and advised the Sub-Committee that her client had appealed the planning decision as other establishments in Claypath had planning permission until 3.00 am and others were in breach of their planning permission.

At 10.45 am Members retired to deliberate the application in private. After reconvening at 11.05 am the Chair explained that in reaching it's decision the Sub-Committee had considered the report of the Licensing Officer, the written and verbal representations of the Applicant, Responsible Authorities and Interested Parties and additional information provided. They had also taken into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

**RESOLVED:**

(i) That the application for a Premises Licence in respect of Urban Oven, 94 Clapyath be granted for the undermentioned times and in accordance with the conditions agreed in advance by the Applicant and Police and the inclusion of an additional condition that the pavement outside be washed:-

Opening hours of the premises	Sunday to Wednesday – 11.00 am to 12.00 Midnight Thursday to Saturday – 11.00 am to 02.30 am
Late Night Refreshment	Sunday to Wednesday – 11.00 pm to 11.30 pm Thursday to Saturday – 11.00 pm to 02.00 am

(ii) That the Enforcement Team be asked to investigate premises staying opening beyond their licensing hours in the Claypath area.

**4 Application for a Premises Licence Deniros Pizza Shop, Seaham**

**Members: C Carr (Chair), A Hpgood, J Wilkinson**

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for a Premises Licence in respect of Deniros Pizza Shop, 50 Parkside Crescent, Seaham, a copy of which had been circulated.

Mrs Tighe an Interested Party indicated that the applicant was currently in breach of the licence and was open after hours. She asked Sgt Tim Robson to speak as a witness on her behalf.

Sgt Tim Robson raised concerns that the premises were staying open late even though they had been written to they continued to stay open, which was a criminal offence and a breach of the licensing objective. He went on to say that Mr and Mrs Tighe had a clear view of the premises and could clearly see transactions taking place beyond the opening hours and that no other premises in the area had a late night licence. He believed that if they received the late night licence they would stay open beyond midnight which would have a detrimental impact on residents. He asked that the licence not be extended until the Applicant could adhere to the current opening hours, following which the Applicant could request that the licence be reviewed.

The Applicant advised the Sub-Committee that he only required an extension for 30 minutes which would allow him to take food orders later than at present. This would allow him to compete with other takeaways. The premises would close at 12.00 midnight. He also indicated that he had never stayed open until the early hours.

The Applicant also referred to a letter from the resident of 47 Ash Crescent who indicated that he had no objections to the extension of the hours. In view of this the Sub-Committee were asked to disregard the letter from the resident that had been circulated with the papers. He also referred to the remaining letters from Interested Parties explaining his relationship to each of the residents. He also spoke about how long it took to make food orders and why he had to sometimes cancel orders as he couldn't make them in time to enable him to close the premises at 11.00 pm.

At 12.20 pm Members retired to deliberate the application in private. After re-convening at 12.35 pm the Chair explained that in reaching it's decision the Sub-Committee had considered the report of the Licensing Officer, the verbal and written representations of the Applicant and Interested Parties. They had also taken into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

**RESOLVED:**

That the application be not granted but if the applicant could prove he was abiding by the licensing objectives then he could re-apply at a later date.