

# LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Tuesday 8 June 2010, at the Town Hall, Royal Leamington Spa at 10.00am.

**PANEL MEMBERS:** Councillors Crowther, Mrs Goode and Guest.

**ALSO PRESENT:** David Davies (Licensing Services Manager), John Gregory (Council's Solicitor) and Emma Millward (Committee Services Officer).

## 1. **APPOINTMENT OF CHAIRMAN**

**RESOLVED** that Councillor Crowther be appointed as Chairman for the hearing.

The Chairman introduced himself, other Members of the Panel and Officers.

## 2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

## 3. **APPLICATION FOR A VARIATION OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR DOMINOS PIZZA, 21 ST JOHN'S, COTEN END, WARWICK**

A report from Community Protection had been submitted which sought a decision on the variation of a premises licence for Dominos Pizza, 21 St John's, Coten End, Warwick.

The Chairman asked those present to introduce themselves, they were Mr Smith from Poppleston Allen solicitors and representing Dominos Pizza, Mr Sharma who was the Operations Director for Dominos Pizza, Warwick and Mr Lawson from Warwick District Council Environmental Health Department.

The Council's Solicitor read out the procedure that would be followed at the meeting.

The Licensing Services Manager outlined the report and asked the panel to consider all the information contained within the report and determine if the application for a variation to the premises licence should be approved.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

The report from Community Protection which was submitted to the Panel presented an application to vary the licensable hours, as set out below:



## **LICENSING PANEL HEARING MINUTES (Continued)**

### *Late Night Refreshment*

<i>Current Hours</i>	<i>23:00 to 00:00</i>	<i>Seven days a week</i>
<i>Requested Hours</i>	<i>23:00 to 05:00</i>	<i>Seven days a week</i>

Following negotiations with Warwickshire Police and the Applicant, these hours had been changed with the inclusion of an extra condition as set out below:

### *Late Night Refreshment*

<i>Late night refreshment on the premises</i>	<i>23:00 to 03.00</i>	<i>Seven days a week</i>
<i>Late night refreshment off the premises (takeaways)</i>	<i>23:00 to 05:00</i>	<i>Seven days a week</i>

*CCTV of British Standard B2378 providing live time recording to be installed in a position agreed with a Warwickshire Police Community Safety/Architectural Officer. Images are to be retained for at least 31 days and must be made available to Warwickshire Police upon request.*

The applicant and Warwickshire Police agreed these changes and therefore the Police withdrew their representation.

The Council's Licensing Policy Statement provided that the authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

The applicant's representative, Mr Smith, outlined the case highlighting that they had put forward further conditions for the panel to agree. These conditions had been circulated before the meeting and included a reduction in the hours for late night refreshment on the premises as shown below:

### *Late Night Refreshment on the premises*

<i>Monday – Saturday and any Sunday before a Bank Holiday Monday</i>	<i>23:00 to 02:00 hours</i>
<i>Sunday</i>	<i>23:00 to 01:00 hours</i>

He went on to say that the police had agreed with their previous reduction in hours and pointed out that they had not received any complaints regarding noise or nuisance from the premises. He also suggested another condition requiring only the back door and back road to the premises to be used after midnight to reduce nuisance to residents.

Mr Smith and Mr Sharma answered questions from the Panel and Mr Lawson, explained the reasons why the applicant wanted a variation to the licence and confirmed that they expected no more than 12 deliveries per hour after 24:00 hours, which would mean a reduction in the noise produced compared to busier times of the day.

Mr Lawson outlined his representation on the grounds of prevention of public nuisance, which was a licensing objective. He explained that the



## **LICENSING PANEL HEARING MINUTES (Continued)**

extended hours would cause noise nuisance to people living in the area produced by the delivery vehicles or drivers and people picking up orders or not moving away from the premises. He also explained that nuisance could be caused by noise travelling through the building from inside the premises into the flats above.

Mr Lawson answered questions from the applicant confirming that he had not received any complaints regarding noise from the premises.

The applicant's representative summed up reiterating that they had not received any complaints and were willing to accept the conditions put forward. He asked the panel to look at sections 1.6, 3.5, 4.15, 4.31, 9.25 and 9.26 of Warwick District Councils Statement of Licensing Policy and referred to the case of *Thwaites v Wirral Borough Magistrates' Court*, asking them to take these into account before making their decision.

The Chairman asked everyone to leave at 11.05am to enable the Panel to deliberate and reach its decision.

In taking their decision the panel paid due consideration to the relevant legislation and guidance, application and representations made about it.

Therefore, it was agreed that the licence should be granted with the amendment to the licensable hours and the addition of the agreed condition with Warwickshire Police and conditions suggested by the applicant.

**RESOLVED** that the application for a variation to the premises licence be granted subject to:

(1) The following opening hours:

Late Night Refreshment on the premises  
Monday to Saturday and any Sunday before a  
Bank Holiday Monday – from 23:00 hours to  
02:00 hours.  
Sunday - from 23:00 hours to 01:00 hours;

Late Night Refreshment off the premises  
Every day from 23:00 Hours to 05:00 Hours

(2) CCTV to be installed as set out in condition (a) below before the licence comes into operation; and

(3) the following conditions being added to the licence:

(a) CCTV of British Standard B2378 providing live time recording to be installed in positions agreed with the Community Safety/Architectural Liaison Officer of Warwickshire Police. Images are to be retained for at least 31 days and shall be



## **LICENSING PANEL HEARING MINUTES (Continued)**

made available at the request of  
Warwickshire Police;

- (b) notices are to be displayed at the exits requesting that customers are to leave the premises quietly and respect the local neighbourhood;
- (c) the Premises licence holder will adhere to the attached Operational and Dispersal Plan;
- (d) the counter service open to the general public will only be available until 01:00 Sundays and 02:00 Mondays and Saturdays and Bank holiday Sundays. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late night refreshment via the delivery service;
- (e) any deliveries from the premises will only be made to a customer's place of residence or place of business;
- (f) any deliveries to the premises will not take place before 07:00; and
- (g) delivery vehicles to be parked at the rear of the premises after 24:00 and all deliveries to be taken out the back of the premises.

The Chairman invited all parties back into the room and announced the decision of the Panel as set out above.

All parties were reminded that they had the right to appeal this decision to the Magistrates within 21 days of the written notification of the decision.

(The meeting finished at 11.25am)