

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE A 18 SEPTEMBER 2017
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**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE A
HELD ON MONDAY 18 SEPTEMBER 2017
AT 0930 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair

Councillors Mike Leddy and Bob Beauchamp

ALSO PRESENT

David Kennedy, Licensing Section
Sanjeev Bhopal, Committee Lawyer
Gwin Pountney, Committee Manager

NOTICE OF RECORDING

01/180917 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

02/180917 Apologies were submitted on behalf of Councillor Kauser. It was noted that Councillor Leddy was the nominated member.

MINUTES

03/180917 The public part of the minutes of the meeting held on 7 August 2017 was noted

**LICENSING ACT 2003 PREMISES LICENCE – GRANT DOMINO'S PIZZA, 154
GRAVELLY HILL NORTH, ERDINGTON, BIRMINGHAM, B23 6BA**

The following persons attended the meeting.

On behalf of the Applicant:

Kalbinder Bains – representing Domino's Pizza

On behalf of those making Representations:

Mrs Julianne Webb – Local Resident

Mr Jim Webb – Local Resident

The following documents of the Acting Director of Regulation and Enforcement were submitted:-

(See Document No. 1)

Mr Bains in presenting the case on behalf of Domino's Pizza and in response to questions from Members, made the following points: -

1. That the request was for a premises licence seeking permission for late night refreshment to operate from 11.00pm until 12.00midnight on a Friday and Saturday.
2. Many other premises in the vicinity and other Dominos premises in Birmingham were open until a lot later without any problems.
3. That 90% of their customers between 11.00pm and 12midnight were delivery customers.
4. That while the initial application had been until 11.30pm the premises was surrounded by businesses that operated a lot later.
5. That he would be happy to agree to deliveries only after 11.30pm and not permitting any customers into the premises after 11.30pm in order to ease residents 'concerns regarding noise.
6. That conditions had been agreed with West Midlands Police (WMP) regarding CCTV and recordings of any anti-social behaviour would be passed on to them.
7. CCTV cameras would cover all the surrounding area around the premises.
8. That during operating hours litter removal would be carried out every 2 hours in the area surrounding the premises.
9. That he could not see that the property of Mr and Mrs Webb was in direct line of sight with the premises as their property was around the corner from Domino's.
10. That an industrial extraction system would be put in the premises to address residents' complaints regarding smells emanating from the premises.

11. That the premises were 170 – 180 feet away from Mr and Mrs Webb's home.
12. That with regard to noise from deliveries to the premises, these could be arranged to 3 times per week between 8.00am and 6.00pm to reduce inconvenience to residents.
13. That with regards to parking during the last hour of business drivers could park at top end of Wood End lane away from residents plus the premise had a parking bay for 5-6 cars on the side. In the evening there were 4 parking spaces available at the front of the premises for the business,
14. In terms of litter clearance the premises had responsibility for the frontage, the car park at the rear of the premises and the side of the premises.
15. With regard to employees there were 8-10 employees working at the premises on Friday and Saturday (of whom 3 were drivers) and 8 delivery vehicles drivers – for whom there were 3-6 parking spaces.
16. The delivery vehicles were cars, but the company were currently looking at changing these to scooters.
17. That with regard to protection of children: the premises would be working with WMP regarding prevention of and addressing anti-social behaviour, CCTV footage would be provide to WMP as requested, the premises' manager would keep an eye on any children congregating outside the premises and that staff were trained to liaise with the authorities if necessary.
18. The premises would be happy to accept any advice and take any further action necessary to protect children from harm.
19. CCTV cameras would cover the front, rear and side of the premises.
20. That the products sold from the premises were not those that would attract loud and drunken customers – there were no sales of kebabs and chips. Furthermore the price of products from the premises was higher than those in surrounding fast food businesses.
21. That delivery drivers would be instructed not to have loud music playing in their vehicles when collecting orders from the premises, be advised not to congregate outside and reserve their conversation until inside the premises.
22. That GPS would be fitted in all delivery vehicles to ensure that all drivers adhered to the Highway Code and selected the best route for their journey.
23. The company had premises in Kingstanding, Wylde Green and Mere Green that were open late. Conditions for all 3 premises had been agreed

with WMP.

Mrs Webb in presenting the case for herself and Mr Webb, and in response to questions from Members, made the following points: -

1. That their main objection to the extension of licence was the amount of litter that would appear in the area as a result of the extended service. Although she felt heartened after hearing from Mr Bains about the litter picking she was unsure of how far this would go to address the problem.
2. There was only 1 bin on the road which was 50 yards from the premises.
3. Furthermore the business would add to the issue of traffic in Wood End Lane and the frontage of the premises would provide another area for people to congregate.
4. That due to the bend and rise in the road the premises could be seen clearly and was in direct line with her bedroom window allowing noise to echo and travel easily to her home.
5. That she was unsure whether the extraction fans used would eliminate all the noise problems.
6. That there would be an increased number of vehicles travelling up Wood End Lane where there were often children on bikes and with drivers driving fast along the road this could cause an accident/collision.
7. That she would prefer deliveries to the premises to take less often and later in the morning than at present.
8. That the double yellow lines in Wood End Lane were not well enforced.
9. That parking within the area was difficult already on a Saturday, with services at the Seventh Day Adventist Church it was difficult for residents themselves to park – plus new flats were due to be built in the area.
10. The employees from the premises would be wanting to park on Wood End Lane near to the premises – not at the top of the road – particularly if they were working until after 11,30pm.
11. That she was uncertain that the CCTV cameras would be covering the right area to capture anti-social behaviour.
12. That because of the road set-up noise travelled directly from the premises to her bedroom in which she slept.
13. That noise may be mitigated if drivers closed not slammed doors, if there was no music on in the cars and if there was no conversation between drivers until they entered the premises.
14. Signage regarding keeping the noise down might prompt, but not necessarily enforce, limitation of sound noise.

In summing up, Mrs Webb stated that initial planning application for the premises had been for opening until 11.30pm and she therefore requested that the opening hours be restricted to this, and not as the applicant had requested to 12midnight. She had no objection to the premises being there her objections were about parking and the noise nuisance in a residential area. This, in her opinion, was not the best location for the premises.

In summing up, Mr Bains agreed: that delivery times to the premises would be changed so that they were not too early in the morning or too late at night; that with regard to smell the extraction fans fitted would be to the highest standard; there would be no sales of kebabs or chips – only pizza; that CCV would cover the curtilage of the entire premises ; that the door would be locked at 11.30pm at the premises and only delivery orders would be taken from 11.30 – this would be advertised on all menus and signage would be put outside regarding noise.

He was therefore still requesting an extension of trading time to 12.00midnight.

At 1045 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1110 hours and the decision of the Sub-Committee was announced as follows:-

04/180917 **RESOLVED:-**

That the application by Professional Pizza Company Ltd for a premises licence in respect of Domino's Pizza, 154 Gravelly Hill North, Erdington, Birmingham, B23, 6BA **BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS** to promote the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives in the Act:

Opening Hours and Licensable Activities

These will be permitted as set out within the Operating Schedule, but the Premises Licence Holder has agreed to close the premises to the public at 2330 hours on Friday and Saturday. This accords with existing Planning Permission for the use of the building as granted. The Premises Licence Holder will however, be permitted to undertake the provision of late night refreshment, in respect of deliveries only, up to 0000 hours on Friday and Saturday.

Signage

The Premises Licence Holder will display prominent signage within the premises asking patrons to be considerate of local residents, and keep noise to a minimum particularly after 9pm.

Other Conditions imposed

A.

The Premises Licence Holder will instruct all their employees and delivery drivers to keep noise to an absolute minimum particularly after 9pm.

This will include:-

- The avoidance of unnecessary engine idling whilst the drivers wait to undertake a delivery;
- Asking delivery drivers to ensure that the opening and closing of doors of vehicles is done discretely;
- Asking delivery drivers to avoid the playing of excessive amplified sound in their vehicles and refrain from participating in loud discussions with each other outside the premises, which would otherwise give rise to a nuisance to local residents.

B.

The Premises Licence Holder will ensure that commercial deliveries to the premises will only take place between 0900 hours and 1800 hours on each trading day.

C.

The Premises Licence Holder will ensure that all employees, servants or agents working at the premises receive training on the four of the licensing objectives under the Licensing Act 2003, particularly the protection of children from harm, and safeguarding of children generally. This training should be carried out at least bi-annually for all employees, servants or agents working at the premises and all records related to this training should be retained for inspection by any Responsible Authority upon reasonable request.

D.

The Premises Licence Holder will collect and dispose of any litter emanating from the premises every two hours during each trading day. The litter sweep/patrol will extend to 50 yards in either direction of the premises. If the Premises Licence Holder is permitted to do so, he shall place a bin at the frontage of the premises and ensure this is emptied regularly throughout each trading day.

Conditions agreed with West Midlands Police

All the Conditions agreed with West Midlands Police as set out in the email from Birmingham Central Licensing Team dated 8 August 2017 timed at 11:34am, and referred to as Appendix 3 within the Committee Report will form part of the premises licence.

The Sub-Committee's reasons for imposing these partially agreed/volunteered conditions are due to the submissions made by other persons and West Midlands Police regarding the location, impact of the proposed operation and likelihood of exacerbating problems in the vicinity where the premises are situated, details of which are set out within the representation from a local

resident.

These matters included: the amount of litter in Wood End Lane and surrounding areas rising to an unacceptable level; residents having to endure inconsiderate noise levels from patrons leaving various establishments in or around Six Ways, Erdington; anti-social behaviour, low level crime and disorder, parking issues and acts of vandalism.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, risk to public safety or risk to children arising from the proposed operation of the premises.

However, the concerns of the other persons and West Midlands Police were taken into account by imposing suitable conditions that would allay their apprehension / fear about the potential of exacerbating the existing problems within the area from the proposed operation of the premises.

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations received and the submissions made at the hearing by the applicant and those making representations.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

**BIRMINGHAM CITY COUNCIL ACT 1990 MASSAGE & SPECIAL
TREATMENT LICENCE – RENEWAL & VARIATION OF STANDARD
CONDITIONS SDI FITNESS (NORTHFIELD) LIMITED 1375 BRISTOL ROAD
SOUTH, LONGBRIDGE, BIRMINGHAM, B31 2SU**

**BIRMINGHAM CITY COUNCIL ACT 1990 MASSAGE & SPECIAL
TREATMENT LICENCE – RENEWAL & VARIATION OF STANDARD
CONDITIONS SPORTS DIRECT, 69 ALCESTER ROAD SOUTH,
BIRMINGHAM, B14 7JQ**

On behalf of the Applicant:

No-one present.

On behalf of the Responsible Authorities:

Sarah Lavender – Licensing Enforcement
Terry Mallard – Health & Safety

The following documents of the Acting Director of Regulation and Enforcement were submitted:-

(See Documents No. 2 and 3)

Mr Mallard in presenting information and in response to questions from Members, made the following points: -

1. He had been a Health & Safety Inspector with Birmingham City Council (BCC) for 22 years. During this period while many things had changed there was no specific legislation regarding the use of sunbeds and solaria.
2. The only information available was the Health and Safety Executive (HSE) guidance for safe use of sunbeds and solaria which is what the Licence Holder would be adhering to at both of these premises.
3. The conditions also meet the Sunbed Tanning Association Guidelines.
4. The specific conditions for Sunbed and Solaria agreed to by the premises repeat what the HSE talk about and follow their guidance.
5. Health and Safety would only take enforcement action if either the Health and Safety at Work Act or the Health and Safety Code of Practice regarding rules of safe use were contravened.
6. That the increase in the number of sessions were not outside of the HSE guidance, only Birmingham City Council Act 1990 (BCCA) which restricts the number of sessions.
7. That if other premises wanted to make changes they would need to identify the conditions put in place and each case would need to be considered individually.
8. That the HSE as a lawmaker, health and safety monitor and issuer of guidance was the main reference for guidance as the BCC Act 1990 was possibly out of date.

Ms Lavender in presenting information and in response to questions from Members, made the following points: -

1. That on her visits there had been some non-compliance issues

regarding conditions regarding staff training and completion of client details.

2. Sports Direct had since then trained all their staff up to standard in completing the customer details form with every customer and ensuring that staff were aware of the importance of knowing each customer's skin type.
3. That the main change was from 20 sessions per year with a 48 hour gap between sessions to 60 sessions per year with a 24 hour gap depending on skin types.
4. The onus regarding skin type and number of sessions still relied upon the honesty of the individual completing the form.
5. To ensure that Sports Direct are following correct procedures there would be random checks at the premise of 2-3 customer forms. However, Sports Direct had agreed that they had originally been using the incorrect customer forms and had since then had trained staff and amended the forms/procedure for completing forms and had informed all staff of the importance of filling the forms in correctly.
6. That the BCC Act 1990 was out of kilter with both the HSE and Sunbed Tanning Association guidance.
7. That while she appreciated the concerns of the Sub-Committee, she had looked everywhere for any other guidance/legislation to support the conditions in the BCC Act 1990 but had not found anything.

Mr Mallard in summing up stated that the Health and Safety Executive guidance had over the last 30 years been the main source of guidance regarding the management of business, including COSHH and was the main source of guidance here.

Ms Lavender in summing up stated that the request by Sports Direct regarding exemption from Condition number 8 of the standard conditions relating to sunbeds and solaria and replacement of this by proposals in their own Sunbed Policy and Training Procedure should be agreed as there was nothing to support the BCC Act 1990 conditions anywhere. However, she would be more than happy to carry out visits to the premises to ensure that the required process/procedure for the varied condition were adhered to.

At 1045 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1110 hours and the decision of the Sub-Committee was announced as follows:-

05/180917 **RESOLVED:-**

That the application by SDI Fitness (Northfield) Limited for the renewal and variation of standard conditions to use the premises as an Establishment for Massage and/or Special Treatments in respect of **SDI Fitness (Northfield) Limited, 1375 Bristol Road South, Longbridge, Birmingham, B31 2SU BE GRANTED.**

The applicant's exemption request to replace Condition Number 8 of Birmingham City Council's Standard Conditions which relate to Sunbeds and Solaria with the Applicant's proposal detailed on Pages 1 & 2 of their Sunbed Policy and Training Procedure was approved by the Sub Committee.

The Sub Committee carefully considered the information presented by the two officers from Birmingham City Council's Licensing Enforcement team and a Health and Safety Inspector employed by the Council's Environmental Health Team and noted that neither had any objections to the renewal or the variation of the licence as sought, on the basis that the proposal put forward by the applicant are in accordance with both industry standards promoted by the Sunbed Association and Health and Safety Executive Guidelines.

The Sub Committee were initially concerned that any departure from the standard Conditions should be viewed with caution given that they were there to safeguard public safety, but were eventually persuaded to grant the exemption request on the basis of the expert advice provided by officers. Given the nature of the exemption request, the Sub Committee were of the opinion that officers in Licensing Enforcement would need to be vigilant and should carry out a routine inspection of the premises in order to assess the effectiveness of the applicant's own Policy, which will now form part of the Licence issued.

In addition to the above, those matters detailed in the Application Form, the standard Conditions of Licence for Massage and Special Treatment Establishments and remaining Specific Conditions for Sunbeds and Solaria will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the relevant City Council Policies, the Birmingham City Council Act 1990, the application and variation of the licence conditions, the written representations received and the submissions made at the hearing by those making representations.

All parties are reminded that under the provisions contained within Section 7 of the Birmingham City Council Act 1990, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision in writing.

06/180917 **RESOLVED:-**

That the application by Sports Direct.com Fitness Limited for the renewal and variation of standard conditions to use the premises as an Establishment for Massage and/or Special Treatments in respect of Sports Direct Fitness, 69 Alcester Road South, Birmingham B14 7JQ **BE GRANTED.**

The applicant's exemption request to replace Condition Number 8 of Birmingham City Council's Standard Conditions which relate to Sunbeds and Solaria with the Applicant's proposal detailed on Pages 1 & 2 of their Sunbed Policy and Training Procedure was approved by the Sub Committee.

The Sub Committee carefully considered the information presented by the two officers from Birmingham City Council's Licensing Enforcement team and a Health and Safety Inspector employed by the Council's Environmental Health Team and noted that neither had any objections to the renewal or the variation of the licence as sought, on the basis that the proposal put forward by the applicant are in accordance with both industry standards promoted by the Sunbed Association and Health and Safety Executive Guidelines.

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In addition to the above, those matters detailed in the Application Form, the standard Conditions of Licence for Massage and Special Treatment Establishments and remaining Specific Conditions for Sunbeds and Solaria will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the relevant City Council Policies, the Birmingham City Council Act 1990, the application and variation of the licence conditions, the written representations received and the submissions made at the hearing by those making representations.

All parties are reminded that under the provisions contained within Section 7 of the Birmingham City Council Act 1990, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision in writing.

OTHER URGENT BUSINESS

07/180917 There were no matters of urgent business

EXCLUSION OF THE PUBLIC

08/180917 That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Minutes – Exempt Paragraphs 3 and 4

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CHAIRMAN