

WELWYN HATFIELD COUNCIL  
LICENSING SUB COMMITTEE  
REPORT OF THE LICENSING OFFICER

Hatfield Villages

REPORT TO LICENSING SUB COMMITTEE

**APPLICATION FOR A PREMISES LICENCE FOR PAPA JOHNS 3A PARKHOUSE  
COURT COMET WAY HATFIELD AL10 9RQ**

**1 Summary of the Application**

<b>Premises Licence Holder(s)</b>
Abdul Karami EESA & Company Limited
<b>Address of Premises</b>
3A Parkhouse Court Comet Way Hatfield AL10 9RQ

This committee report contains an application for a licence for 3A Parkhouse Court Comet Way Hatfield. A copy of this application and premises plan is shown in appendix A.

Appendix B contains a map of the locality and representations received.

Summary of Application Received

An application has been received from the Abdul Karami under the Licensing Act 2003 for a premises licence for late night refreshment.

Late night refreshment customers on the premises (as agreed with the police) sales from 23.00 until 01.00 Monday to Sunday.

Opening hours are 11.00 until 04.00 (01.00-04.00 deliveries only) Monday to Sunday.

**1.1 Unresolved representations**

Environmental Health has made a representation part of which has already been agreed with the police as above. There is one representation from the public against the application relating to problems with noise and antisocial behaviour in the area of Parkhouse Court. The representations are at appendix C.

**Resolved representations**

The police made a request/representation that customers should only be present at the premises until 01.00hrs and deliveries until 04.00hrs and this was agreed by the applicant. The email and the applicants reply ensuring that staff are aware to keep noise to a minimum with procedures to enforce this is at appendix D.

## **2 Background**

The application submitted is for an application for late night refreshment.

- 2.1 The committee is obliged to determine this application for a premises licence for Papa Johns 3A Parkhouse Court.
- 2.2 Papa Johns is situated by several other take away premises one of which, Dominos Pizza, is situated three premises away from Papa Johns and operates the same hours of opening and home delivery as applied for by Papa Johns. Photographs of the location are at Appendix E.
- 2.3 In determining the application the sub committee must take account of the councils duty to promote the statutory licensing objectives namely:
  - A) The prevention of Crime and Disorder
  - B) Public Safety
  - C) The Prevention of Public Nuisance
  - D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

## **3 Licensing Policy**

- 3.1 The sub committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

Guidance 3.12 (partial)

The 2003 Act affects premises such as night cafes and take away food outlets where people gather at any time from 23.00 and until 05.00hrs. In this case, supply takes place when the hot food or hot drink is given to the customer and not when payment is made. For example, supply takes place when a table meal is served in a restaurant or when a take-away is handed to a customer over the counter.

Guidance 9.41

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

Guidance 9.42

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Guidance 9.43

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable

to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

#### Guidance 10.13

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

#### Guidance 13.56

The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

#### Guidance 13.57

There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

- 3.2 The sub committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes

#### Interface with planning controls

The Council recognises that the 'need' for new premises is not considered within the remit of the Act. The assessment of need for retail and leisure development is a matter for the planning authority to consider when planning the core strategy.

## Licensing Hours

We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.

The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.

Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

## 4 Recommendation

4.1 The committee must have regard to the application made and the evidence it hears. The sub-committee is therefore asked to determine the application.

4.2 In determining the, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:

- a) To grant the licence as proposed.
- b) To modify the conditions of the licence by altering or omitting or adding to them as appropriate for the promotion of the licensing objectives (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
- c) To exclude any of the licensable activities to which the application relates.
- d) To refuse to specify a person in the licence as the premises supervisor.
- e) To reject the whole of the application.

## 7 Appendices

- a. Premises licence application.
- b. Cartology map of locality showing representation received.
- c. Representations received.
- d. E mail from the police
- e. Photographs

Kate Payne, Licensing Team Leader

Date – 23rd May 2016