

## PART A

**Report to:** Licensing Sub-Committee  
**Date of meeting:** 22 May 2017  
**Report of:** Head of Community & Environmental Services  
**Title:** Application for new Premises Licence  
Pepe's Piri Piri, 81 Whippendell Road, Watford WD18 7LY  
17/00332/LAPRE

### 1.0 SUMMARY

1.1 An application for a new Premises Licence has been received from Rahman Ltd in respect of Pepe's Piri Piri, 81 Whippendell Road, Watford WD18 7LY. The premises are applying for permission to provide late night refreshment only.

Representations have been received from a local resident.

### 2.0 RECOMMENDATIONS

2.1 That the Licensing Sub-Committee determines whether to grant the application (amended as appropriate for the promotion of the licensing objectives) as set out in the report.

#### **Contact Officer:**

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**Report approved by: Alan Gough, Head of Community & Environmental Services**

### 3.0 **APPLICATION**

3.1 Type of authorisation applied for  
New Premises Licence

3.2 Description of premises

The premises are described on the application as follows:

“Pepes Piri Piri is situated on Whippendell Road, WD18 7LY in a very densely populated residential area. Its located on a very compact high street. We as Pepes Piri Piri serve the local community with healthy grilled food and has been running from the past 9 years. We are very well known in Watford and are very pleased to serve our customer base in West Watford, Oxhey, Bushey, North Watford, Rickmansworth, Northwood and Garston. Our shop is a corner located shop with a reasonable size customer area and the kitchen is very large from the back. Our current trading time is from 11am - 11pm. Due to high demand in the area we have been requested by a large number of customers to open till late (2am) as our delivery service ends at 10pm. We aim to close our customer area at 11pm and just focus on deliveries till late. We do not supply or sell any alcohol related items or drinks. Our customers are mostly who order food and then do a takeaway and order through deliveries”

3.3 Under Policy LP1, the proposed use would be defined as a take-away, in that the premises are requesting permission to provide late night refreshment for consumption away from the premises.

3.4 The premises is located within a mixture of commercial and residential units. Under Policy LP2, this area would be held to be a ‘residential area’.

3.5 The premises is also located within the Whippendell Road sensitive licensing area under Policy LP4.

3.6 A map of the location of the premises is attached at appendix 1.

3.7 The plan submitted with the application showing the layout of the premises is attached at appendix 2. An enlarged version of this plan, focussing on the premises itself, is attached as appendix 2A.

3.8 Licensable activities

This application is requesting permission to provide the following licensable activities

<b>Licensable activity</b>	<b>Requested</b>
Plays	
Films	
Indoor sporting events	
Boxing or wrestling entertainment	
Live music	
Recorded music	
Performances of dance	
Entertainment of a similar description to live or recorded music, or dance	
Provision of late night refreshment	✓
Sale of alcohol for consumption on the premises	
Sale of alcohol for consumption off the premises	

### 3.9 Licensable hours

The hours proposed in this application are detailed in the following table:

	<b>Provision of late night refreshment</b>
Monday	Not applicable
Tuesday	Not applicable
Wednesday	Not applicable
Thursday	23:00 – 02:00
Friday	23:00 – 02:00
Saturday	23:00 – 02:00
Sunday	23:00 – 02:00

3.10 The original application did request the provision of late night refreshment to be permitted from 23:00-02:00 Monday to Sunday. However, the application was amended to only request these hours on Thursdays, Fridays, Saturdays and Sundays after discussions with Environmental Health.

3.11 For clarity, the premises will not allow access to the premises by members of the public after 23:00 hours. The business will only operate a food delivery service. A licence for late night refreshment will be required because the food will be hot.

3.12 Currently the business trades from 11:00 to 23:00. No licence is required for this operation.

### 4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

- 4.2 Proposed licence holder  
Rahman Ltd trading as Pepe's Piri Piri
- 4.3 Current licences held  
The premises is not currently licensed
- 4.4 Closing date for representations  
26 April 2017
- 4.5 Officers can advise that the consultation period for this application was extended to the date above due to the application not being properly advertised.
- 4.6 Public notice published in newspaper  
14 April 2017
- 4.7 Visits and Enforcement action  
The premises has not been subject to any visits or enforcement action from the licensing authority in respect of its operation. However, it is acknowledged that the premises is not currently licensed.
- 4.8 The Environmental Health team did receive complaints in October 2016 and again in March 2017 regarding the extractor fan at this premises, with allegations that the fan was causing nuisance in the form of noise, smell, and smoke. However, due to insufficient information from the complainant, officers could not progress this investigations further.
- 5.0 **PROMOTION OF LICENSING OBJECTIVES.**
- 5.1 The operating schedule submitted by the applicant to describe the steps that they intend to take to promote the four licensing objectives is attached at appendix 3.
- 6.0 **REPRESENTATIONS**
- 6.1 Responsible Authorities  
No formal representations have been received from a responsible authority.
- 6.2 Environmental Health did enter discussions with the applicant with regards to concerns that they did have, but in light of the applicant agreeing to amend the application and amending the operating schedule no representations were submitted.

### 6.3 Other Relevant Bodies

Representations have been received from the persons listed below.

Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective(s)
Mrs Bharti Patel	84 Whippendell Road	No	Public nuisance

6.4 These representations are attached at appendix 4.

6.5 The representations make reference to how they live directly opposite from the premises, and that there are concerns over the lighting, noise, smell and smoke from the operation of the premises would disturb the residents. Reference is also made to existing nuisances, and how this will be worse if the premises is permitted to open until later.

6.6 Officers can advise that Mrs Patel has been notified of the amendments to the application and the conditions which were agreed with Environmental Health.

6.7 In accordance with Policy LP11, officers must advise that representations from one other party were rejected as being frivolous, giving no valid grounds for making the representations. Officers can confirm that this person was notified as to why their representations were rejected.

### 7.0 **POLICY CONSIDERATIONS**

7.1 The following provisions of the Licensing Act 2003 apply to this application:

- Sections 17 and 18 (Application for premises licence):  
Section 17 details the process which the applicant must have followed for the application to be considered valid. Section 18 describes the process by which an application for a premises licence is determined, including where relevant representations have been made as in this case.
- The Licensing Act 2003 (Hearings) Regulations 2005 (as amended)  
These regulations detail how hearings should be conducted to determine applications submitted under the Licensing Act.

### 7.2 Statutory guidance

This application was received on 14 March 2017, before the most recent statutory guidance was issued in April 2017. Therefore, the guidance which

applies to this application is the version issued in March 2015.

The following provisions of the Secretary of State's guidance (March 2015) apply to this application:

- Paragraphs 8.33 - 8.41:  
These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub-Committee to decide in light of this guidance whether the measures offered by the applicant are appropriate to promote the licensing objectives. It is equally important to use the same measure when looking at any steps requested by a party making representations against an application.
- Paragraphs 9.30 – 9.40:  
These paragraphs explain that hearings should be focussed on the steps considered appropriate to the promotion of the licensing objectives, as well as how appropriate weight must be attributed to the steps to promote the licensing objectives, the representations presented by all parties, the statutory guidance, and the licensing authority's statement of licensing policy.
- Paragraphs 9.41 – 9.43  
These paragraphs explains that when determining applications, the authority's determination should be evidence-based, as well as how to assess if a step is 'appropriate' for the promotion of the licensing objectives.
- Chapter 10:  
This chapter looks at best practice in relation to conditions that may be attached to a premises licence should it be believed that such conditions are appropriate to promote the licensing objectives. Any additional conditions requested by any party should be considered with reference to this chapter.

### 7.3 Statement of licensing policy

The following paragraphs of the licensing authority's statement of licensing policy apply to this application:

- Policy LP1 – Premises Definitions  
In accordance with the information as submitted with the application, officers would describe the premises as a 'take-away'.
- Policy LP2 – Location and Operation of Premises

This policy sets out the approach to licensing premises when relevant representations are received, notwithstanding that each application is considered on its own merits. This premises is situated within a residential area, as such this policy states that take-aways 'will generally be allowed late-night refreshment sales to midnight only (other than for special occasions)'.

- Policy LP4 – Sensitive Licensing Areas

The premises are located on Whippendell Road within a Sensitive Licensing Area (SLA). SLAs were introduced in the licensing authority's 2013 Statement of Licensing Policy to recognise community concerns about the impact that a concentration of licensable activities in a small geographical area has on the licensing objectives. This includes:

- availability of stronger-strength alcohol to street drinkers leading to anti-social behaviour in the immediate vicinity of the premises
- alcohol and/or late night refreshment being available at times that are significantly different from other premises in that area likely to have an adverse impact on the licensing objectives
- litter and other nuisances from a concentration of late-night take-aways

Where an application for alcohol sales or late night refreshment has been received within an SLA, this policy states that the licensing authority will consider making representations and will strictly apply policies LP6, LP7, LP8 and LP9 in relation to those premises. Members are asked to note that the licensing authority did not make representations against this application.

Where additional representations have been made by other parties, our strict starting point in these areas will be to consider whether conditions will be appropriate to address those concerns or whether a refusal is justified on the basis that the licensing objectives would be undermined.

- Policy LP8 (Prevention of Public Nuisance):

Under this policy the committee will consider any necessary measures to deal with the potential for public nuisance and/or anti-social behaviour where relevant representations have been received.

- Policy LP11 (Representations against Applications):  
This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

7.4 The Sub-Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

7.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

## 8.0 **CONDITIONS**

8.1 Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.

8.2 The most critical part of the operating schedule is the steps taken by the applicant to promote the four licensing objectives. Applicants are always reminded to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence.

8.3 Applicants should give consideration to the local area and reflect this in their application. It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.

### 8.4 Conditions consistent with the operating schedule

Officers do propose that the following conditions would be appropriate to attach to the licence to promote the licensing objectives, and are consistent with the applicant's operating schedule.

1. No members of the public shall be permitted to be in the premises while the premises are being used for licensable activities.
2. All late night refreshment provided under this licence shall be for consumption off of the premises only.

### 8.5 Conditions proposed by responsible authorities

Environmental Health and the applicant discussed this application and it was

agreed that the application would be amended as follows:

1. Days of operation will be Thursday , Friday, Saturday and Sunday.
2. On Thursday , Friday, Saturday and Sunday, the extract unit will be turned off at 11.30pm and will not be turned on again until the business reopens the following day.
3. On Thursday , Friday, Saturday and Sunday, all windows and doors will be closed at 12.00am and remain closed until the business reopens the following day.
4. On Thursday , Friday, Saturday and Sunday, no refuse will be moved into the yard or external bins after 12.00am. Refuse can only be moved externally when the business reopens the following day.
5. All deliveries will be to a genuine address.

Environmental Health did advise that they were seeking controls over the extract unit due to the complaints which had been received about the operation of this unit.

8.6 There was also an agreement around restricting the playing of music and the use of a radio within the premises, but as the application is not requesting the playing of music as a licensable activity, officers believe that it is not appropriate to attach such a condition to any licence which may be granted.

8.7 Conditions proposed by other objectors  
None

8.8 Pool of Model Conditions  
In addition to any conditions proposed by the responsible authorities or objectors, the licensing authority also has its own pool of model conditions that may help mitigate the concerns raised in the representations.

8.9 Officers do not believe that there are any additional conditions within the pool of model conditions which would be appropriate in this case. The representations do state concerns over potential nuisance from the premises, and the application already contains proposals which were agreed with Environmental Health with the aim of promoting the licensing objectives. Members may wish to enquire whether the proposals are satisfactory to address the concerns raised in the representations, or whether any additional controls would be appropriate to address those concerns. The representations mention that there are existing nuisances at all times, but no further details are provided as to what the existing issues are, or how the granting of this licence would increase the impact of this nuisance. Members are encouraged to investigate these nuisances and determine if they would

be exacerbated by the use of this premises for licensable activities, but are reminded that conditions would only be in affect during the licensed hours and cannot be applied to the operation of the premises for activities which do not require a licence.

- 8.10 Officers would highlight that the proposed condition agreed with Environmental Health regarding the closure of doors and windows at the premises does appear to have unintended consequences in that it does not allow staff to leave the premises. For clarity, it is already proposed that there should be no members of the public on the premises after 23:00. It is considered that a similar condition which allows the use of the doors for the immediate access or egress of staff would still be consistent with the intent behind the condition, which is to limit the outbreak of noise and other nuisances from inside of the premises, and would prevent the doors or windows from being propped open continuously.
- 8.11 Officers also wish to clarify the proposed condition regarding deliveries being made to a genuine address. Officers can advise that this condition is aimed at preventing customers standing outside of the premises on the street, or in other such open locations, and requesting delivery of food to their location which may result in public nuisance. The aim of this condition is to require that any deliveries are made to a genuine property, which may be either residential or commercial.
- 8.12 This does not restrict the sub-committee's power to attach conditions from the pool (amended or otherwise) if they consider that they are appropriate, proportionate, justifiable and within the applicant's power to comply with.
- 8.13 A draft Premises Licence which reflects this application and the conditions which are proposed in the preceding paragraphs is attached at appendix 5.

## 9.0 **OFFICERS' OBSERVATIONS**

- 9.1 Officers can advise that the objector was notified upon submission of their comments that the application had been amended following discussions with Environmental Health, but that they responded that they wished their representations to stand. Members are encouraged to enquire as to what aspects of the application are still a cause for concern, in order to assess whether any further conditions may alleviate these concerns, or if the grant of this licence would be held to undermine the promotion of the licensing objectives.
- 9.2 It is noted that this application falls under Policy LP4 and the premises is

within a sensitive licensing area. This policy states that the strict starting point for determining this application, and considering any representations against the application, will be to consider if conditions will be appropriate to address the concerns raised against this application, or whether a refusal is justified on the basis that the licensing objectives will be undermined.

- 9.3 Policy LP2 sets out the approach to licensing premises when representations have been received, notwithstanding that each application will be considered on its own merits. This policy states that take-aways in residential areas will generally be allowed late night refreshment sales to midnight only (other than for special occasions). In justifying the approach of this policy, it is recognised that flexible licensing hours may be appropriate in promoting the licensing objectives in different areas. It is stated that this approach is with the aim of reducing the impact of customers leaving a number of premises at the same time, and also the potential for conflict late at night. This policy also acknowledges that opening hours must not be pre-determined without giving individual consideration to the case at hand.
- 9.4 Members are able to depart from policy in circumstances where there are justifiable reasons for doing so, and after considering the individual merits of the application before them.
- 9.5 In considering this application and whether to depart from policy, Members may wish to take into account the proposed use of the premises, and how the operating schedule makes reference to how the business will utilise any licence to focus on running a delivery service. Members may wish to seek confirmation of how the delivery service will operate from the applicant, and whether such an operation addresses the objector's concerns. If Members believe it is appropriate to do so, there may be scope to discuss additional conditions based upon such information.
- 9.6 The officers' observations and the comments regarding the representations are in no way meant to bind Members. They are for guidance only and Members may attach whatever weight they see fit.
- 9.7 Members can also attach whatever weight they see fit to both the submissions of the applicant, and to the submissions of the objectors, when considering this application.
- 9.8 The Sub-Committee are reminded that they have a duty to "have regard" to the licensing policy but are not bound by it. However, should Members wish to depart from the policy then detailed reasons for this must be given as part of any decision.

9.9 In determining this application, the Sub-Committee must have regard to the representations and take such steps as it considers appropriate for the promotion of licensing objectives. The steps are:

- (a) grant the application in full.
- (b) modify the conditions of the licence volunteered by the applicant in the operating schedule, by altering or omitting or adding to them.
- (c) reject the whole or part of the application.

#### Appendices

Appendix 1 – location plan

Appendix 2 – layout plan

Appendix 2A – layout plan (enlarged)

Appendix 3 – operating schedule

Appendix 4 – representations from Mrs Patel

Appendix 5 – draft premises licence (17/00332/LAPRE)

#### Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Licensing Act 2003

Amended guidance issued under section 182 of the Licensing Act 2003 (Home Office March 2015)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013 – November 2018)

Watford Borough Council Pool of Model Conditions (March 2013)

#### File Reference

Pepe's Piri Piri