

## PART A

**Report to:** Licensing Sub Committee  
**Date of meeting:** 19 January 2024  
**Report of:** Licensing Officer (PS)  
**Title:** Licensing Sub Committee – Papa John’s 474 St Albans Road Watford

### 1.0 Summary

- 1.1 An application for a new premises licence has been received from PJ Corp Stores Limited to licence the premises at 474 St Albans Road Watford WD24 6QU. One responsible authority has submitted representations.
- 1.2 Members are reminded that representations are only relevant if they relate to one or more of the licensing objectives. The four licensing objectives are:
- 1) The prevention of crime and disorder
  - 2) Public safety
  - 3) The prevention of public nuisance
  - 4) The protection of children from harm
- 1.3 During the consultation period representations against this application have been received from Environmental Health in their role as responsible authority. They have expressed concerns with regards to public nuisance.

### 2.0 Risks

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(Treat, tolerate, terminate, transfer)</i>	Risk Rating (the combination of severity and likelihood)
Appeal against decision by applicant or objectors	Decision overturned by the courts with potential of costs being awarded against council if	Determination of application given with detailed reasons and after considering evidence before the	Treat	2

	decision is not justified or legal	committee, the council's licensing policy, statutory guidance and legislation		
Judicial review of decision by applicant, objectors, or consultees	Negative perception of the council and its licensing system	Hearing process held in accordance with the legislation, the statutory guidance, and the council's licensing policy, with both applicants and objectors being given fair chance to present their arguments to the Committee	Treat 1	

### 3.0 Recommendations

- 3.1 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: Justine Hoy, Associate Director Housing and Wellbeing**

4.0 **Application**

4.1 **Type of authorisation applied for**

4.2 Application for a new premises licence, attached at appendix 1.

4.3 Members are advised that the application was amended during the consultation period following discussions with the Police.

4.2 **Description of premises**

4.3 The premises operates as a takeaway and fast food service for customers to take away.

4.4 Under Policy LP1 the use would be defined as a 'take-away in a residential area and falls under the Council's Sensitive Licensing Area (SLA) Policy LP4. The premises are on St Albans Road local shopping parade with residential accommodation flats above and in close proximity to the premises.

4.5 A map of the location of the premises is attached at appendix 2.

4.6 A plan showing the layout of the premises is attached at appendix 3.

4.7 **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	

4.8 **Licensable hours**

The amended hours are detailed in the following table:

4.9

	Late night refreshment	Opening Hours
Monday	23:00-01:00	11:00-02:00
Tuesday	23:00-01:00	11:00-02:00
Wednesday	23:00-01:00	11:00-02:00
Thursday	23:00-01:00	11:00-02:00
Friday	23:00-01:00	11:00-02:00
Saturday	23:00-01:00	11:00-02:00
Sunday	23:00-01:00	11:00-01:00

4.10 The applicant did request the provision of late-night refreshment to be permitted from 23:00 – 02:00 hours Monday to Sunday. The above hours are not the original hours as during the consultation period the applicant’s legal representative amended the proposed hours after discussions with the Police.

4.11 For clarity, the premises shall be closed to the public after 01:00 Monday to Sunday and will then operate only as an online delivery service until it closes.

4.12 The applicant has requested non-standard timings. During the consultation period the non standard timings for British Summer Time hours were amended as follows:

At the start of British Summer Time, and on that day only, the terminal hour for LNR and opening hour will be extended by one hour.

5.0 **Background information**

5.1 The following information is known about this premises:

5.2 **Current licences held.**  
None

5.3 **Closing date for representations**  
26 December 2023

5.4 **Public notice published in newspaper.**  
15 December 2023

## 5.5 **Visits and Enforcement action**

The committee has requested that officers note the history of visits and enforcement actions for application premises. There is no history of visits or enforcement action against this premises, as the premises is not currently licensed.

## 6.0 **Promotion of the licensing objectives**

6.1 The operating schedule submitted by the applicant to describe the steps that they intend to take to promote the licensing objectives is included within the application form attached at appendix 1.

As a result of discussions with the responsible authorities, members are advised that the operating schedule and licensable activities hours have been amended since the application was originally submitted. These amendments and any conditions agreed with the responsible authorities are detailed later in the report.

## **Responsible Authorities**

7.1 Environmental Health (EH), as a responsible authority, has submitted a representation attached at appendix 4.

7.2 EH are concerned that there is a likelihood that this application would lead to an increase in public nuisance. The premises is in a residential area, including the newly built flats just opposite the premises and commercial premises.

7.3 The EH representation states “that the number of residential properties is far more substantial and includes newly built flats opposite” EH have raised concerns that allowing deliveries and collections past 23:00 is likely to generate nuisance from customers and delivery drivers at this location. This includes use of the service road to the rear. This noise is likely to impact many residents and could lead to public nuisance.

## 8.0 **Policy considerations**

8.1 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 (Hearing Regulations 2005) as amended:  
These regulations detail how hearings should be conducted to determine applications submitted under the Licensing Act.

## 8.2 **Statutory guidance**

The following provisions of the Secretary of State's guidance (April 2018) apply to this application:

### **Paragraph 2.27:**

This paragraph explains that beyond the immediate area surrounding the premises, individuals are responsible for their own actions and are accountable in their own right. However, it may be reasonable for premises to display signage to inform customers to respect the rights of people living nearby, for example.

### **Paragraphs: 8.41 – 8.49:**

These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub-Committee to decide in the 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 measures when looking at any steps requested by a party making representations against an application.

### **Paragraphs: 9.31 - 9.41:**

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: 9.42 – 9.44**

These paragraphs explain 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.

## 8.3 **Statement of licensing policy**

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

### **Policy LP1 – Premises Definitions**

Under this policy, the premises are best defined as a takeaway.

## **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 on St Albans Road (as defined in Policy LP3) and as such this policy states that takeaways 'will generally be allowed late-night refreshment sales to 1am only (other than for special occasions)'.

### **● Policy LP 4 – Sensitive Licensing Areas**

The premises are located on St Albans 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 geographic area has on the licensing objectives. This includes:

- 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 takeaways.

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 LP 6 – Prevention of crime and disorder:**

Under this policy the committee will consider any necessary measures to deal with the potential for crime and disorder where relevant representations have been received, and this policy highlights areas of particular concern.

### **● Policy LP 8 – Prevention of public nuisance:**

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

### **● Policy LP11 – Representations against application:**

This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

- 8.5 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.

8.6 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.

## 9.0 **Conditions**

9.1 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.

9.2 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.

9.3 Applicants should consider 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.

The applicant's operating schedule can be found in their application attached at appendix 1.

## 9.4 **Conditions agreed with the responsible authorities**

9.5 During the consultation period the applicant agreed the following conditions with the Police, which would be attached to the premises licence should this licence be granted:

1. The premises shall install and maintain a CCTV system. All entry, exit and point of sale areas will be covered by the cameras, and the images shall enable frontal identification of every person entering in any light condition. The system shall continually record whilst the premises is open for licensable activities and during all times when staff and customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available to a Police officer or an authorised officer of the licensing authority upon request throughout the preceding 31 day period.

2. All faults with the CCTV system shall be repaired as soon as possible and in any case within two working days after which time, if the system is still inoperative no licensable activities shall take place without the agreement of the Police until the fault is rectified.



3. A staff member from the premises shall be fully conversant with the operation of the CCTV system and shall be able to download any data or footage in a timely manner, to a Police officer or an authorised officer of the licensing authority upon request.
4. There shall be a sign notifying customers making orders inside the premises of 'last orders for late night refreshment 15 minutes before closing time.'
5. An incident log shall be kept at the premises for at least 12 months, and made available on request to a Police officer or an authorised officer of the licensing authority, which shall record the following:
  - a) All crimes reported to the premises, or by the venue to the Police, and
  - b) Any incidents of crime and disorder.
6. All assaults resulting in physical injury to a person must be reported immediately to the Police.
7. Notices shall be prominently displayed at all exits requesting customers to respect the needs of local residents and leave the area quietly, and to dispose of their waste responsibly. Staff will also encourage customers to leave the premises quietly.
8. All doors and windows shall be kept closed except for the immediate access and egress of persons.
9. The premises licence holder shall actively cooperate and comply with the Police at all times.
10. The premises shall be closed to the public after 01:00 Mon - Sun and will then operate only as an online delivery service until close.
11. For Non-Standard Timings - At the start of British Summer Time, and on that day only, the terminal hour for LNR and opening hour will be extended by one hour.
12. Online orders shall be delivered by a delivery driver, and not collected by customers after 01:00 on any day.
13. Music shall not be played at the premises after 01:00 on any day.
14. Delivery drivers shall enter and leave their vehicles (or get on and get off their bikes) quietly and considerately, not leave engines running and with due consideration to neighbours.
15. Delivery vehicles shall switch off their engines whilst stationary and collecting orders for delivery during the provision of late-night refreshment.

16. Delivery vehicle horns shall not be used during the provision of late- night refreshment, except in accordance with the Highway Code.

17. Online orders taken by the premises shall be delivered to customers at a bona fide address.

#### 9.6 **Conditions consistent with the operating schedule**

9.7 Officers have not identified any additional conditions which are consistent with the operating schedule submitted with this variation. It is noted that some of the conditions agreed with the Police are similar to the steps volunteered within the operating schedule.

#### 9.8 **Pool of Model Conditions**

9.9 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.

9.10 Officers have not identified any specific conditions from the pool of model conditions which are considered to be appropriate for the promotion of the licensing objectives in this case.

9.11 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.

9.12 A draft Premises Licence which reflects this application and the conditions which are proposed in the preceding paragraphs is attached at Appendix 5.

#### 10.0 **Officers' observations**

10.1 It is noted that as relevant representation in respect of this application has been received, which have not been withdrawn, the licensing sub-committee acting on behalf of the licensing authority must decide on this application.

10.2 EH were made aware of the amended hours and conditions agreed with the Police. At the time of writing this report, mediation has been offered to all parties to mitigate concerns, which at the time of writing this report. Members may wish to enquire whether the applicant wishes to offer any additional conditions or control measures to mitigate EH concerns.

10.3 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.

- 10.4 In reference to the representations, Members are reminded that a sensitive licensing area is not the same as a cumulative impact policy. A cumulative impact policy, such as policy LP3 of the council's licensing policy, presumes that an application be refused unless the application can be proven to not add to the cumulative impact of licensed premises within the area defined by the policy. A sensitive licensing area does not carry the presumption that an application may be refused, and the application must be considered upon its own merits and whether the premises risks undermining one or more of the licensing objectives. If there are any risks, the first step should be to consider if the concerns can be addressed through conditions, and only consider refusing an application where there are no alternatives, or the risk is such that a refusal is justified.
- 10.5 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 to both the submissions of the applicant and to the EH submissions of EH.
- 10.6 The Sub-Committee is reminded that it has a duty to "have regard" to the licensing policy but is 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.
- 10.7 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 them.
  - (c) reject the whole or part of the application.

## **Appendices**

Appendix 1 – Application

Appendix 2 – Map

Appendix 3 – Layout

Appendix 4 – EH Representations

Appendix 5 – Draft premises licence

## **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 December 2022)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2018– November 2023)

Watford Borough Council Pool of Model Conditions (January 2018)