

FOR DECISION
WARD(S): ST MICHAEL

LICENSING SUB – COMMITTEE

Tuesday 17 January 2023 10:00 Walton Suite, Guildhall Winchester

Report of the Service Lead for Public Protection

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Application: Application for the Grant of a New Premises Licence

Premises: Papa John's, 72 - 74 St Georges Street, Winchester, Hampshire,
SO23 8AH

Part A. Report

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Part A.

1. Application

Applicant: Hamble Foods Ltd

Premises: Papa John's, 72 - 74 St Georges Street, Winchester, Hampshire, SO23 8AH

- 1.1 This application is for the grant of a new premises licence under section 17 of the Licensing Act 2003 for Papa John's, 72 - 74 St Georges Street, Winchester, Hampshire, SO23 8AH.
- 1.2 The premises is described in the application as a Papa John's Pizza franchise, which serves takeaway food via collection and delivery only. There is no seating for customers to consume food on the premises. The premises is currently open to customers between 11:00 and 23:00.
- 1.3 The application proposes the provision of late night refreshment between 23:00 and 03:00. The application form can be seen at Appendix 1 to this report.
- 1.4 No representations were received by any other Responsible Authorities.
- 1.5 Representations have been received from two 'Other Persons', both of which are against the application. The representations are set out in Appendix 2 to this report, and relate to the prevention of crime and disorder and the prevention of public nuisance licensing objectives.
- 1.6 Notice of the application was displayed outside of the premises for a period of 28 days until 1 December 2022, and advertised in the Hampshire Chronicle on 10 November 2022.
- 1.7 Notices of the hearing were sent to all parties on 3 January 2023.

Steps to promote the Licensing Objectives

Please see Section M, Appendix 1.

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Environmental Health

No representations received.

Hampshire Constabulary

No representations received.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Trading Standards

No representations received.

Public Health Manager

No representations received.

Home Office

No representations received.

Licensing Authority

No representations received.

Planning

No representations received.

3. Representations from Other Persons

Representations have been received from two 'Other Persons', both of which are against the application.

The representations are set out in Appendix 2 to this report, and relate to the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

4. Observations

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee is also obliged to have regard to the national guidance issued under section 182 of the Licensing Act 2003, and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the representations.

The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives:

1. Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and the mandatory conditions;
2. Exclude from the scope of the licence any of the licensable activities to which the application relates;
3. Reject the application.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy 2.22 Part 4, A8, C4)

Licensing Objectives

Crime and Disorder

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.9 - 2.11, 2.17, 2.19 – 2.21 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B2, B3)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

Public Sector Equality Duty

The Public Sector equality duty must be taken in to consideration with all decision making. The duty is stated in section 149 of The Equality Act 2010. This application raises no concerns in relation to the Act.

5. Possible Conditions

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule.

Operating Hours

1. The hours the premises may be used for late night refreshment shall be:

Monday to Sunday 23:00 to 03:00

All Licensing Objectives

A1: The premises licence holder shall ensure that provision of hot food / drink during licensable hours shall be for consumption off the premises only.

A2: The premises licence holder shall ensure that customers are not sought by means of solicitation outside or in the vicinity of the premises.

Crime and Disorder

CD1: The premises licence holder shall ensure that recordable CCTV is in place when licensable activity is taking place. There shall be sufficient cameras to cover all primary public areas in addition to cameras covering the entrance and exit.

Public Nuisance

PN1: The premises licence holder shall ensure that prominent, clear and legible notices are displayed at all exits, requesting customers to respect the needs of nearby residents and to leave the premises and area quietly.

PN2: The premises licence holder shall ensure that customers are requested to leave the vicinity quickly and quietly.

PN3: The premises licence holder shall ensure that vehicles used for the purpose of delivering products to customers do not sound vehicle horns or leave engines running unnecessarily.

PN4: The premises licence holder shall ensure that adequate waste receptacles are provided for use by customers in the vicinity of the premises.

6. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

A statutory licence fee of £190.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Hamble Foods Ltd
2. Representations by Other Persons
3. Map of Premises Location
4. Map of Representations