

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

Licensing Sub-Committee
Date of Committee – Wednesday 4th June 2025
Public session

Report Title: Application to vary a premises licence, which has received a relevant representation.

Submitted by: Service Director – Regulatory Services

Portfolios: Finance, Town Centres and Growth

Ward(s) affected: Town ward

Purpose of the Report

To inform the Sub-Committee of an application to vary a premises licence which has received a relevant representation.

Recommendation

That Sub-Committee:

In accordance with the Licensing Act 2003, the statutory guidance and the Council's own Statement of Licensing Policy the Sub-Committee must consider the Premises Licence variation application and have regard to the four licensing objectives, as below, when making its decision:

- (i) The Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) The Prevention of Public Nuisance
- (iv) The Protection of Children from Harm

Reasons

On 11 March 2025 an application to vary the premises licence was received from Newcastle Pizza Limited for Caprinos on Liverpool Road. As part of the consultation that ended on 09 April 2025, a representation was received in objection to the application.

1. **Background**

1.1 The licence information relating to this application is as follows:

Premises: Caprinos
Location: 131 Liverpool Road, Newcastle Under Lyme, ST5 9HD
Licence Number: 18076
Premises Licence Holder: Newcastle Pizza Ltd (Company number 15337442)

1.2 Caprinos has held a premises licence to authorise late night refreshment since 06 July 2018. The hours authorised by the premises licence were Sundays to Thursdays 23:00 until 00:00

and Fridays and Saturdays 23:00 until 01:30. A copy of the current premises licence can be found at **Appendix A**.

- 1.3 On 11 March 2025, a variation application was received to extend the opening hours and the hours for late night refreshment until 03:00 hours on Sundays to Thursdays and until 04:00 hours on Fridays and Saturdays. A copy of this application form and supporting evidence submitted by the applicant following the representation is attached at **Appendix B**.
- 1.4 On 13 March 2025, a relevant representation from the Environmental Protection Team was received in objection to the application. The objection was made regarding the prevention of public nuisance and highlighted that the premises is in a residential area with the nearest residential bedroom being approximately 36 metres away. The objection raises concerns about the late-night noise that might be generated by patrons and delivery drivers and that there is no other late night commercial use in the vicinity until 04:00 hours. A copy of this objection, including additional correspondence between Licensing and Environmental Health, is attached at **Appendix C**.
- 1.5 On 1 April 2025, email correspondence was received from the Planning Department stating that the premises does not have any consent for the advertising signage at the premises or the outbuilding at the rear of the premises. On 7 April 2025 a further email was received from the Planning Department confirming that they will not be making an objection against this application and on 8th April the Planning Enforcement Officer confirmed that he was confident that the applicant would apply for retrospective planning for the matters outlined in his email of 1 April. A copy of the emails from planning can be found at **Appendix D**.
- 1.6 On 17 January 2025 the Licensing Team received notification that Mr SALEEM had registered as the new Food Business Operator (FBO) of the Caprinos and so the licensing team wrote to Mr SALEEM on 20th January requesting an application to transfer the premises licence. This email clearly details the hours authorised by the current premises licence. A copy of this correspondence can be found at **Appendix E**.
- 1.7 On 5 February and 19 February 2025, a Licensing Officer chased the outstanding transfer application, and it was at this point, that it was noticed that the premises was advertising hot food for supply as late as 04:00 hours which is 2 hours and 30 minutes later than their premises licence authorises. In response to this a Licensing Officer telephoned the premises and left a message with a shop worker to say that they must not trade in excess of what their premises licence authorises. A copy of the action log can be found at **Appendix F**.
- 1.8 Later the same day on 19 February 2025 the Licensing Team received a call from the new owner of the premises Mr Saleem, asking if he could stay open until 03:00-04:00 hours until he has had time to complete the transfer and variation applications. Mr Saleem claimed that the business was partnered with Uber Eats, Deliveroo and Just Eat and if he was to close early and not fulfil the orders then it would be bad for business and incur a financial penalty. A copy of the notes taken during the telephone conversation can be found at **Appendix F**. This was later supported by a written request to trade outside of his hours, a copy of the email can be found at **Appendix G**.
- 1.9 On 19 February and 24 February 2025 warning letters were sent to the premises licence holder at the time, being Mr Rafique and also to the new business owner Mr Saleem. The warning letters set out the offence of carrying out licensable activity without authorisation. A copy of the letter and email correspondence can be found at **Appendix H**.

- 1.10 On 24 February 2025 Mr Saleem emailed the Licensing Team to confirm that the trading hours of the premises were corrected as of the 19 February 2025 and that he would apply to transfer the premises licence into his business name. A copy of this email is attached at **Appendix G**.
- 1.11 On 27 February 2025 Newcastle Pizza Ltd (Company number 15337442) applied to transfer the premises licence.
- 1.12 On 24 April 2025 a check of companies house confirms that Mr Muhammad Husham SALEEM is the Sole Director of Newcastle Pizza Limited. A copy of the companies house record can be found at **Appendix I**.
- 1.13 Google street view images of the premises location is attached at **Appendix J**, and a GIS location plan of the premises is attached at **Appendix K**.
- 1.14 The premises is located within the area covered by the Council's recently updated Cumulative Impact Assessment which is attached as **Appendix L**.

2. **Issues**

- 2.1. The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives;
 - (i.) The Prevention of Crime and Disorder
 - (ii.) Public Safety
 - (iii.) The Prevention of Public Nuisance
 - (iv.) The Protection of Children from Harm
- 2.2. The Licensing Act 2003 requires the Council to publish a "Statement of Licensing Policy" that set out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. Copies of the Council's Statement of Licensing Policy and the Government's Statutory Guidance will be available at the Licensing Sub-Committee hearing.
- 2.3. In making their decision on the application, the Sub-Committee are obliged to have regard to the Statutory Guidance, the Council's own Statement of Licensing Policy and the Council's Cumulative Impact Assessment. The Sub-Committee must also have regard to the representations made and the evidence heard at the hearing. However, the Sub-Committee must disregard any representations that do not relate to the promotion of the four licensing objectives.

3. **Recommendation**

- 3.1 The Sub-Committee, where it considers that action under its statutory powers is appropriate, may take any of the following steps for the promotion of the four licensing objectives. The steps available to the Sub-Committee are listed in Section 5.1 of this report.
- 3.2 The applicant has offered a compromise by way of a 1 hour reduction from the hours originally applied for. The details of this can be found on **page 16 of Appendix B**. The applicant has also suggested a number of ways in which they would aim to control any noise nuisance from the premises, including operating a delivery only service after midnight on Sundays to Thursdays and after 01.30 hours on Fridays and Saturdays, and using audio recording on the CCTV system (**page 15 Appendix B**) which could be added as licence conditions.

3.3 The conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

3.4 The Sub-Committee are asked to note that they may not modify the conditions or take any other steps merely because they consider it desirable to do so. Any action taken must be appropriate in order to promote the licensing objectives.

4. **Reasons**

4.1 To ensure that the Council promote the licensing objectives in accordance with their statutory duty.

5. **Options Considered**

5.1 The relevant options considered in relation to this application are:
 (a) to grant the application as applied for;
 (b) to grant the application with modified conditions and/or timings;
 (c) to refuse the grant of this variation application.

6. **Legal and Statutory Implications**

6.1 The power to determine an application to vary a premises licence which falls under Section 35 of the Licensing Act 2003.

6.2 Hearings will be carried out in a fair, proportionate, and consistent manner in line with:

Article 6(1) guarantees an applicant a fair hearing.
 Article 14 guarantees no discrimination.

7. **Equality Impact Assessment**

7.1 Not Applicable

8. **Financial and Resource Implications**

8.1 Premises Licence Holder has the right to appeal the decision at the Magistrates Court and if successful could apply for the award of costs.

9. **Major Risks & Mitigation**

9.1 As above

10. **UN Sustainable Development Goals (UNDSG)**

10.1



11. **Key Decision Information**

11.1 Not Applicable

12. **Earlier Cabinet/Committee Resolutions**

12.1 The Licensing Committee has previously resolved to have regards to its Licensing Policy.

13. **List of Appendices**

- 13.1 Appendix A – Premises licence
Appendix B – Variation application and supporting evidence
Appendix C – Objection from Environmental Protection Team
Appendix D – Planning Emails
Appendix E – Food Business Operator Registration Form
Appendix F – Civica APP action log
Appendix G – Email requesting extension of hours
Appendix H – Warning letter and email
Appendix I – Companies House Check
Appendix J – Google Street View
Appendix K – GIS map
Appendix L – Cumulative Impact Assessment

14. **Background Papers**

- 14.1 Licensing Policy 2020-2025
14.2 Licensing Act 2003 Statutory Guidance