



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

THURSDAY 25TH MARCH 2010, AT 10.00 A.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors Mrs. R. L. Dent, Ms. J. A. Marshall and S. P. Shannon

AGENDA

LICENSING SUB-COMMITTEE HEARING PROCEDURE (Pages 1 - 4)

1. Appointment of Chairman for the meeting
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest
4. To consider an application for a premises licence in respect of Dominos Pizza, New Road, Rubery (Pages 5 - 24)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

17th March 2010

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Appendix

LICENSING SUB-COMMITTEE

HEARING PROCEDURE

1. The Chairman will open the hearing and introduce members of the Sub-Committee and officers present.
2. The Chairman will ask all other people present to introduce themselves.
3. The Chairman will inform those present that the meeting is being recorded.
4. The Chairman will remind the Applicant and each party present that they can be represented by a legal representative at their own expense.
5. The Licensing Officer will present the report.
6. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Licensing Officer.
7. The Chairman will invite the Applicant and/or his/her representative to present his/her case and call any witnesses. The Applicant will be allowed a maximum of 10 minutes to present the case.
8. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Applicant.
9. The Chairman will invite the Responsible Authorities to present their representations. New representations must not be raised. The Responsible Authorities will be allowed a total of 10 minutes to present their case(s). If two or more Responsible Authorities wish to address the Sub-Committee the 10 minutes will be divided between them.
10. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Responsible Authorities.
11. Interested Parties will be invited to present their representations or elect a spokesperson (which may be a Councillor) to speak on their behalf. New representations must not be raised. A maximum of 10 minutes will be allowed for the Interested Parties to present their case(s). If two or more Interested Parties wish to address the Sub-Committee the 10 minutes will be divided between them.

- 12. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Interested Parties.**
- 13. The Interested Parties will be invited to sum up. A maximum of 5 minutes will be allowed.**
- 14. The Responsible Authorities will be invited to sum up. A maximum of 5 minutes will be allowed.**
- 15. The Applicant will be invited to sum up. A maximum of 5 minutes will be allowed.**
- 16. At the conclusion of the hearing all parties, including the Licensing Officer, will be asked to withdraw. The Members of the Sub-Committee, the Legal Adviser and the Committee Services Officer will remain.**
- 17. Once the Sub-Committee has reached its decision, all parties will be invited to return. The Sub-Committee's decision, together with the reasons for the decision, will be announced by the Chairman.**
- 18. The Sub-Committee's decision will be confirmed in writing to the Applicant and those parties who made representations.**

Please Note:

1. ***Each application coming before the Licensing Sub-Committee will be treated on its own merits, and the Sub-Committee will take its decision based upon:***
 - a) ***the promotion of the four licensing objectives, as given by the Licensing Act 2003, namely:***
 - ***the prevention of crime and disorder;***
 - ***public safety;***
 - ***the prevention of public nuisance; and***
 - ***the protection of children from harm;***
 -
 - b) ***Bromsgrove District Council's Statement of Licensing Policy;***
 - c) ***guidance issued under section 182 of the Licensing Act 2003; and***
 - d) ***the Licensing Act 2003.***
2. ***The Chairman may require any person who in his/her opinion is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit him/her to return only on such conditions as the Chairman may specify. However, such person may, before the end of the hearing, submit in writing any information which he/she would have been entitled to have given orally at the meeting had he/she not been required to leave.***
3. ***Decisions may be taken in the absence of the Applicant or any other party. All notices and representations received from absent parties will be considered.***
4. ***Questioning must not be hostile or intended to unfairly undermine the position of any party.***
5. ***Late evidence will only be considered with the agreement of all parties present.***
6. ***In cases where a decision cannot be given at the end of the hearing, the decision will be made within 5 working days.***
7. ***An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which all parties were notified in writing of the decision of the Licensing Sub-Committee.***
8. ***All meetings are recorded.***

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

MARCH 2010

APPLICATION FOR A PREMISES LICENCE – DOMINOS PIZZA NEW ROAD, RUBERY

Responsible Portfolio Holder	Cllr. P. Whittaker
Responsible Head of Service	Head of Planning and Environment Services

1. SUMMARY

- 1.1 To consider an application to grant a premises licence in respect of Dominos Pizza, 200 New Road, Rubery. Dominos Pizza is an outlet that provides hot food for consumption on and off the premises.

2. RECOMMENDATION

- 2.1 That Members determine the application. The application may be refused, or it may be granted in whole or in part (with additional conditions, if appropriate), and all of it or part of it may be applied to the whole or part of the premises provided that the Sub-Committee's decision is consistent with the licensing objectives and the Council's Statement of Licensing Policy.

3. BACKGROUND

- 3.1 The Licensing Authority has received an application for a new Premises Licence, in accordance with the Licensing Act 2003.
- 3.2 The new application to seeking the following permissions:

Provision of Late Night Refreshment

- 11.00 p.m. – 12 midnight every Sunday through to Thursday;
- 11.00 p.m. – 1.00 a.m. Friday and Saturday

Actual opening hours of the premises

- 11am – 12 midnight every Sunday through to Thursday;
- 11am – 1.00 a.m. every Friday and Saturday;

- 3.3 The applicant is already permitted to provide late night refreshment till 11.00 p.m. without the requirement to hold a premises licence.
- 3.4 As part of the application process, applicants are required to carry out a risk assessment of the effect the proposed licence would have on the four licensing objectives and what steps they intend to take in order to promote these objectives should the application be granted.
- 3.5 For ease of reference the four licensing objectives are:
- Prevention of crime and disorder;
 - Protection of public safety;
 - Prevention of public nuisance;
 - Protection of children from harm.
- 3.6 Details of the measures the applicant is prepared to take are set out at Appendix A. Should the licence be granted, these measures will form part of the licence, which the applicant will have to adhere to.
- 3.7 In accordance with the Licensing Act, a responsible authority is entitled to make representations. Responsible authorities include the Police Authority, Planning Authority, the Council's own Environmental Health Department, Fire Authority, Trading Standards and the Area Child Protection Committee.
- 3.8 On this occasion, a representation has been received from Environmental Health a copy of which is attached at Appendix B. No representations have been received from any of the other responsible authorities.
- 3.9 In accordance with the Licensing Act, anyone residing in the vicinity of a premises for which an application has been made is entitled to make representations. Vicinity is not defined in the Licensing Act.
- 3.10 Representations have been made by 6 residents living near to the premises. A copy of each representation is attached at Appendix B. The basis of their representations relate to an increase in anti social behaviour and noise nuisance in a residential area.
- 3.11 A plan showing the location of the premises is attached at Appendix C.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from this Report. However if either party made a successful appeal to the Magistrates' Court against the decision of the Council, the Council may be liable for any legal costs.

5. LEGAL IMPLICATIONS

- 5.1 Each party is entitled to appeal to the Magistrates' Court if they are dissatisfied with the decision of the Council, within 21 days from the date of decision.
- 5.2 The Sub-Committee must have regard to the Statutory Guidance, issued by the Secretary of State under Section 182 of the Licensing Act 2003. Paragraph 13.23 of the guidance states that:

“Need concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. Need is a matter for planning committees and for the market.”

- 5.3 The Sub-Committee must have regard to the Council's Statement of Licensing Policy.
- 5.4 The conduct of the Sub-Committee is governed by the Licensing Act 2003 (Hearings) Regulations 2005, as amended.
- 5.5 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.

6. COUNCIL OBJECTIVES

- 6.1 This item links with the Council Objective CO2.

7. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 7.1 The main risk associated with the details included in this report are:
- Decision made without having regard to Council Policy, Guidance issued by Secretary of State and governing legislation.
- 7.2 This risk is being managed as follows:
- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
 - Risk Register: Planning and Environment Services
 - Key Objective Ref No. 8

8. CUSTOMER IMPLICATIONS

- 8.1 All parties will be notified of the Council's decision in writing.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None.

11. CLIMATE CHANGE AND CARBON IMPLICATIONS

11.1 None.

12. OTHER IMPLICATIONS

Procurement Issues – None
Personnel – None
Governance/Performance Management – None
Community Safety including Section 17 of the Crime and Disorder Act 1998 – None
Policy – The Council’s Statement of Licensing Policy applies to this application. This reads: <i>“We will consider every application sent to us, on its individual merits. When we make licensing decisions we will promote:</i> <ul style="list-style-type: none"><i>▪ prevention of crime and disorder;</i><i>▪ protection of public safety;</i><i>▪ prevention of public nuisance, and</i><i>▪ protection of children from harm.”</i>
The Council’s policy further states that: <i>“Licensing is not the primary mechanism for general control of nuisance and the anti-social behaviour of people once they are away from a licensed premises.”</i>
Biodiversity - None

13. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Executive Director (Partnerships and Projects)	No
Executive Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities and Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

14. WARDS AFFECTED

Waseley.

15. APPENDICES

Appendix A – Operating Schedule
Appendix B – Letters of representation
Appendix C – Location plan of the premises

16. BACKGROUND PAPERS

Application form received on 29th January 2010
Email received from Environmental Services dated 3rd February 2010
Letter received from Worcestershire County Council – Safeguarding and Quality Assurance dated 3rd February 2010
Letter received from Hereford & Worcester Fire and Rescue Authority dated 8th February 2010

Contact officer

Name: John Davies, Licensing Assistant
E Mail: john.davies@bromsgrove.gov.uk
Tel: (01527) 881473

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P

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

/

b) The prevention of crime and disorder

CCTV INSTALLED - INDOORS

c) Public safety

CCTV INSTALLED - CUSTOMER'S AREA
- OUT DOORS

d) The prevention of public nuisance

/

e) The protection of children from harm

NO CHILDREN ALLOWED INTO THE
COOKING AREAS UNLESS ACCOMPANIED
BY RESPONSIBLE ADULT.

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Appendix B

John Davies

From: Sadie Hawson
Sent: 03 February 2010 09:54
To: John Davies
Subject: Domino's Pizza Lat Night Refreshment

Dear John

Following Environmental Health consultation on Domino's Pizza, 200 New Road, Rubery, Late night Refreshment Licence application I would make the following comments:

Commercial

We have no concerns in relation to this application on Health and Safety or Food Safety grounds which meet with the 4 licensing Objectives.

General

P part d) The prevention of public nuisance has been missed and I would request that in order to reduce the risk of noise from customers leaving the premises late at night and disturbing the local residents that a notice be put up within the business, which the public can see before exist to the premises. The sign could read; 'patrons/or customers leaving the premises are requested to respect local residence and therefore to do so quietly' or 'On leaving the premises, late at night, please ensure you keep noise levels to a minimum to prevent disturbing our neighbours' or a words to similar effect.

It is also understood that the late night refreshment licence is currently outside the planning permission granted for this premises and that this fact will be highlighted to them by yourselves.

Thank you for your help during our discussion on this matter.

Kind regards

Sadie Hawson
 Environmental Health Officer

Environmental Health
 Planning & environment Services
 Bromsgrove District Council
 The Council House
 Burcot Lane
 Bromsgrove
 Worcestershire
 B60 1AA

Tel: 01527 881441
 Web: www.bromsgrove.gov.uk
 Email: shawson@bromsgrove.gov.uk

General Inquires: 01527 881288
pe@bromsgrove.gov.uk



Ms S Smith
Licensing Section
Bromsgrove District Council
Burcot Lane
Bromsgrove
Worcs B60 1AA

12th February 2010

Ref: Extended opening hours – Domino's Pizza 2008 New Road Rubery.

Dear Ms. Smith

I am writing to formally object to the proposed extended opening hours applied for by Domino's Pizza 2008.

My objections are as follows:

1. There is already a noise problem from people collecting food and sitting in cars with radios at a high volume level, talking/shouting to each other with the existing opening hours. Any extension to these hours will only aggravate the problem.
2. Extending the hours will only encourage additional unruly customers from further afield to cause further nuisance/noise later into the night when people are trying to sleep.
3. Litter is an existing problem in the immediate area to the front side and rear of the premises. Any extended hours will obviously cause an increase in this volume of litter. Are the Council to arrange for clearance of this litter?

I would also bring to your attention that I only learnt about this application from a friend in another part of Rubery, The Standard is not delivered to my home, and surely I should have been notified directly by yourselves as I live in the immediate vicinity.

I look forward to receiving your comments to the above.

Yours faithfully

Sharon Smith
Licensing Section
Bromsgrove District Council
Burcot Lane
Bromsgrove
B60 1AA

9 February 2010

Domino's Pizza: 200 New Road Rubery

Dear Ms Smith,

I refer to the application by Domino's Pizzas for extended opening:

1.00 am on Friday and Saturday

12.00 midnight Sunday to Thursday

I wish to register my objection to these proposals.

As a resident of one of the flats situated over this parade of retail outlets, I'm already only too aware of the increased level of activity and noise in the service road, as a result of the "comings and goings" of the pizza delivery drivers. Whilst this may not necessarily present a huge problem during the winter months, during the summer, when we residents are more likely to have our windows open, my view is that extending these activities into the early hours will prove unacceptably intrusive. Also, a pizza shop open this late at night may act as a "magnet" to groups of youngsters - leading to an unwelcome increase in noise and general disturbance.

I must also add that on health grounds, can we really consider it to be appropriate to encourage anyone, young or old, to eat pizza so late at night?

Yours sincerely,

10th February 2010

Mr John Davies
Licensing Section
Bromsgrove District Council
Burcot Lane
Bromsgrove
Worcs. B60 1AA

Dear Sir,

Re: Dominos Pizza 200 New Road Rubery B45 9JA

I wish to object to the application for extended opening hours for the above named business on the grounds of noise and nuisance for the following reasons.

I have had complaints from my tenants living above the premises [REDACTED] New Road and from tenants in my property at [REDACTED] New Road that **customers and delivery drivers working from the premises sit outside in their cars with stereos blasting out loud music into the night, whilst waiting for their orders to be prepared. The other problem is gangs of customers outside the premises shouting and laughing loudly, especially at night, having a smoke while their orders are prepared and quite often hanging around for long periods while consuming their food outside and talking and shouting. When people come from the pub in the evening they tend to be louder.**

Then the staff clean down and close up, closing the metal shutters and saying good night, getting in their cars to go home about half an hour or so after closing time.

I think the hours they are trading should be at least kept as they are and certainly not extended so that the local residents do not have to endure this nuisance any later into the early hours of the morning.

Yours faithfully

[REDACTED]

Dear Sharon Smith

I am writing to you to oppose the extending opening hours of Domino's Pizza, 200, New Rd, Rubery. firstly I would like you to take into consideration that there are occupied flats above the shops in new Rd. we already have to put up with youths hanging around the shops, banging shutters, people who wish to purchase pizza's are often sitting in their cars late at night playing there music loud whilst waiting for their pizza. Dominos drivers parking underneath shop windows playing car stereo's loud. They bang around at the back late at night whilst emptying bins, slamming bin lids and there back door. And as you can well imagine them closing there shutters down at gone 1 am waking everybody up. Most people who live in these flats are hard working people and do not want any more

disruption to their sleep, so please
when making your final decision you
take note of the issues I have raised
Sinco Dominos moved into the area
with their late night openings it
has caused a lot of extra noise.

Dear

Sharon Smith

After receiving your letter about the opening times of Domino's pizza I would like to object to the licensing committee for this action to be carried forward.

Due to living right above domino's pizza I am disturbed on a regular basis and therefore would not be happy for this to happen any later of an evening.

Due to my work commitments
I have to get up at
4:30 am therefore
would not like to be
disturbed any longer than
needed.

Sharon Smith,
Licensing Section,
Bromsgrove District Council,
Burcot Lane,
Bromsgrove,
Worcs.
B60 1AA

To whom it may concern,

I am writing in response to the application for Domino's Pizza, 200 New Road, Rubery, to extend their opening hours, until 12 Midnight Monday to Thursday and 1am Fridays and Saturdays.

As a resident who lives above the premises in question I wish to express my objection to these plans, an objection supported by my wife and my neighbours.

At present, Domino's Pizza has a specific impact on the residents of New Road. This impact includes:

- Litter abandoned outside the store and the surrounding area, including on the access steps to our properties.
- Noise pollution later in the evening, specifically relating to cars pulling up outside with excessive noise from their stereos, and customers standing outside the store whilst waiting or eating.
- Noise from the back of the store where staff take their breaks or use the bins.
- Cars belonging to the delivery drivers enter the service road at speed and have also been parked with no or little consideration to other people. There have also been occasions when this has led to damage to cars, including my car which has had the front bumped and number plate damaged.

Though this impact is frustrating and distracting to me and neighbouring residents, we begrudgingly accept this, as I acknowledge that the area below us is a place of commerce.

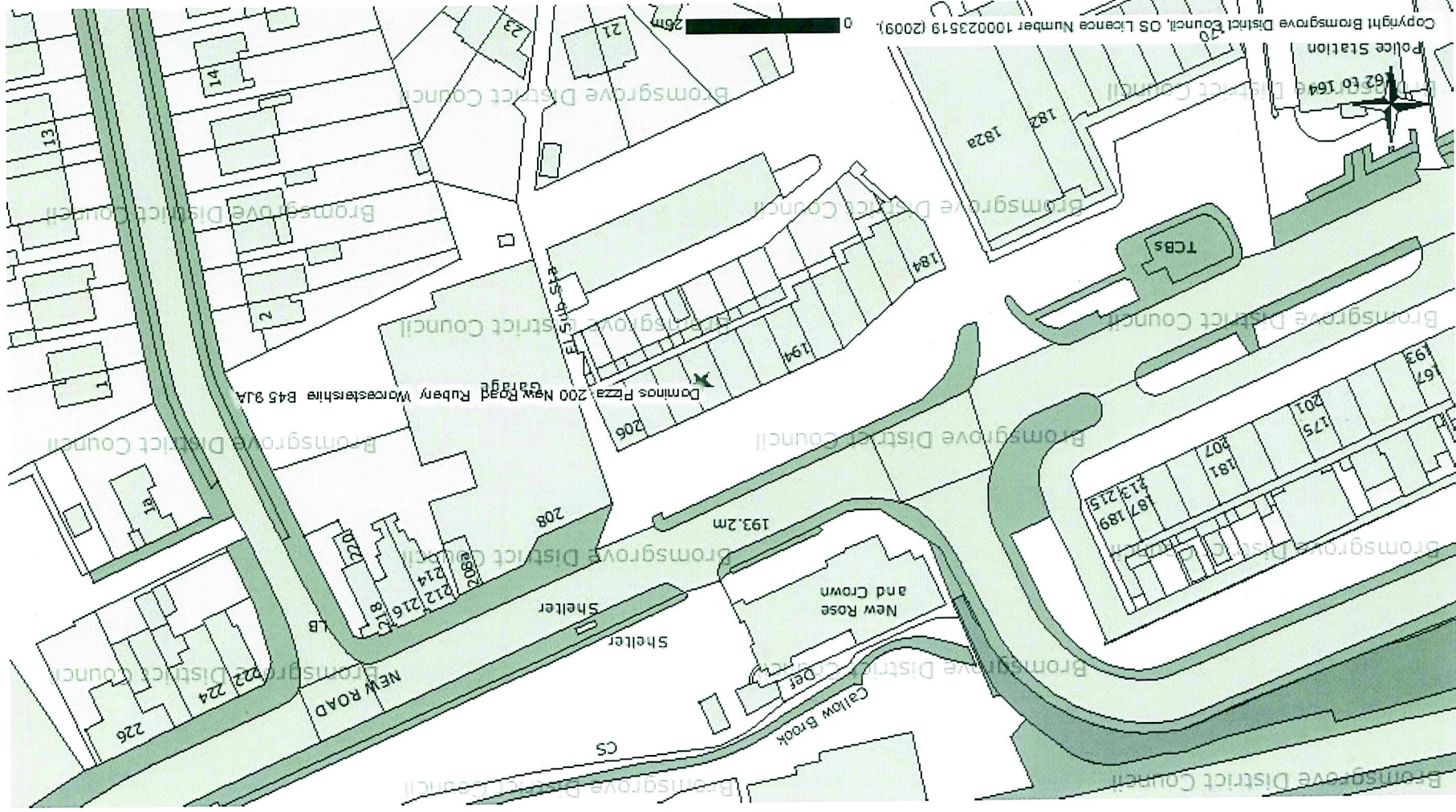
My concern is that extended hours will impact us further, with the above impacts worsening, due to the time of night the store will be open.

Extended opening hours also adds further concerns for me:

- Excessive noise in the early hours of the morning is disturbing, and, specifically for my wife, can be alarming and scary when she is on her own at home.
- The target audience for these hours must be, presumably, the people who leave the New Rose and Crown opposite. I feel that it is fair to say that those that have been drinking to the early hours are more likely to make noise and leave litter.
- There have also been incidents between customers of the pub that have occasionally involved the police. Later opening hours will encourage these people to stay on New Road longer, after the pub has closed, and could add to the incidents that have and still do occur.

In summary, any extension of opening hours for Domino's Pizza will lead to further disruption and a negative impact on my neighbours and I, and, as such I must object completely to this proposal.

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BUILDING PRIDE

Bromsgrove District Council
www.bromsgrove.gov.uk



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