



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 2nd March, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Aziz Toki (Chair) and Md Shamsed Chowdhury

Apologies for Absence: Councillor Laila Cunningham

1. MEMBERSHIP

1.1 It was noted that Councillor Cunningham was unable to attend the Licensing Sub Committee.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. KAZAN, 93-94 WILTON ROAD, SW1V 1DW

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1 ("The Committee")

Thursday 2 March 2023

Membership: Councillor Aziz Toki (Chair) and Councillor Md Shamsed Chowdhury

Officer Support Legal Advisor: Vivienne Walker
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donovan

Others present: Mr Levent Hassan (Applicant), Mr Dave Nevitt (Environmental Health Service), Mr Samuel Countryman and Miss Christine Middleton (local residents).

**Application for a New Premises Licence in respect of Kazan 93-94 Wilton Road
London SW1V 1DW – 22/10485/LIPN**

Full Decision

Premises

Kazan
93-94 Wilton Road
London SW1V 1DW

Applicant

Mr Hassan Levent

Ward

Pimlico North

Cumulative Impact Zone

N/A

Special Consideration Zone

Victoria

Activities and Hours applied for

- Recorded Music (Indoors)
Monday to Saturday 10:00 to 23:00 hours
Sunday 10:00 to 22:30 hours

Seasonal Variations: None
- Late Night Refreshment (Indoors)
Monday to Saturday 23:00 to 23:30 hours

Seasonal Variations: None
- Sale by Retail of Alcohol (On and Off Sales)
Monday to Saturday 10:00 to 23:00 hours
Sunday 12:00 to 22:30 hours

Seasonal Variations: None
- Hours Premises are Open to the Public
Monday to Saturday 10:00 to 23:30 hours
Sunday 12:00 to 23:00 hours

Seasonal Variations: None

Summary of Application

This is an application for a New Premises Licence under the Licensing Act 2003 (“The Act”). The Premises operate as a restaurant. The Premises previously had the benefit of a premises licence (06/12282/WCCMAP), but the licence lapsed due to an administrative error dating back to March 2016.

There is a resident count of 218.

Representations Received

- Metropolitan Police Service (withdrew 16 December 2022)
- Environmental Health Service
- Three local residents (objected to the Application)
- Two local residents (withdrawn)
- One local resident (supported the application).

Issues raised by Objectors.

- The proposals are likely to increase the risk of Public Nuisance and may impact upon Public Safety.
- I opposed to the application to extend the hours of the premises 2300 (alcohol) and 2330 (light refreshments) nightly. Despite being a busy thoroughfare Wilton Road is not a locale with a night-time economy, all local restaurants observing fairly early hours of closing nightly. The current application, if successful, will open the floodgates for similar applications from neighbouring businesses. This in turn would alter the character of the area and diminish tranquillity of the residents of what remains a primarily residential area of SW1.
- This is a residential area and 11.30 p.m. is too late and would I fear set a precedent for all the restaurants in the street.
- In the summer months when the windows are open at night, large groups of diners who often have enjoyed a drink are not ever quiet when leaving. They stand outside for both smoking and waiting for taxis at the end of the night.
- If the time was amended to 10.30 that would be fine and would be more than they currently use.

Policy Considerations

SCZ1

Applications within a designated Special Consideration Zone should demonstrate that they have taken account of the issues particular to the Zone in question as identified within the Cumulative Impact Assessment and should set out any proposed mitigation measures in relation to those issues within their operating schedule.

HRS1

Applications within the core hours set out in this policy will generally be granted for the relevant premises uses, subject to not being contrary to other policies in the Statement of Licensing Policy.

RNT1

Applications outside the West End Cumulative Impact Zone will generally be granted subject to not being contrary to other policies in the Statement of Licensing Policy.

SUBMISSIONS AND REASONS

The Presenting Officer, Jessica Donovan, introduced the application to the Sub-Committee and advised that this was an application for a New Premises Licence in respect of Kazan 93-94 Wilton Road London SW1V 1DW. The Premises currently operate as a restaurant. She advised that representations had been received by the Environmental Health Service and six local residents. She added that two of the local residents had since withdrawn their representation and one resident was in support of the application. She further advised that the Metropolitan Police Service had withdrawn their representation after conditions had been agreed with the Applicant. She confirmed that the Premises are within the Pimlico North Ward and the Victoria Special Consideration Zone.

Mr Levent Hassan, the Applicant addressed the Sub-Committee. He advised that his grandfather had purchased the restaurant in 1961 and since then it had been operated as a family business. He confirmed that he was now the owner of the restaurant and the director of the company. He explained that the company had changed its name to Kazan and Restaurant Limited when they expanded the business which had gone unnoticed until the Licensing Authority had spotted that the restaurant's name on their insurance documents did not match their Premises Licence. He advised that the Licensing Authority had informed him that he would need to apply for a new Premises Licence because of this administrative error even though he was already operating as a restaurant. Mr Hassan confirmed that his business had not gone into liquidation.

In response to questions from the Sub Committee, Mr Hassan confirmed that he operated the Premises as a restaurant within the Council's Core Hours Policy. He stated that he had never received any complaints from residents. He advised that his restaurant was one of the nicest ones in the area and had featured on a few television programmes such as MasterChef. He explained that the restaurant had a capacity of 120 patrons and the majority of people booked before coming to the restaurant. He advised that there were residents living above the Premises which had not made a representation against the application. He advised that there was outside seating, however it was rarely used because customers did not want to drink coffee next to a busy and noisy road. He confirmed that the outside area belonged to the Premises and was not part of the highway.

Mr Hassan advised that the Premises consisted of a small bar, a basement with a capacity for forty patrons and a ground floor with a capacity for eighty persons. He confirmed that the administrative error was noticed in December 2022, and that the Licensing Authority had allowed him to continue to operate as a restaurant without the sale of alcohol over the Christmas period.

Mr Dave Nevitt, representing the Environmental Health Service (EHS) confirmed that this was an existing family run restaurant that consisted of a small bar, basement and ground floor. He explained that there had been an administrative error whereby the company name had changed and hence invalidated the Premises Licence. Mr Hassan had therefore had to apply for a new Premises Licence which was why he

was before the Sub Committee today. He advised that Mr Hassan had ceased selling alcohol as soon as the administrative error had become apparent and had traded with customers either bringing their own alcohol or with Temporary Event Notices (TENs). He emphasised that there had been no breach of the regulations.

Mr Nevitt advised that the Environmental Health Service viewed the Premises as being operated satisfactorily without complaint or cause for concern and were content with the application as the nature of the operation was remaining as a family run restaurant. He stated that the Applicant did not need a tables and chairs licence as the outside seating area belonged to the Premises. He advised that proposed condition 11 was effectively the Council's model restaurant condition MC66 as it outlined that the Premises shall operate as a bona fide restaurant, that alcohol was ancillary to a meal and food was served by waitress/waiter service. He further advised that the EHS had requested the proposed condition 24 which stated that the capacity for the basement be restricted to forty patrons.

Mr Nevitt advised the Sub-Committee that the Premises were located in the Victoria Special Consideration Zone however residential concerns regarding noise nuisance should be alleviated as the Premises would be operating within the Council's Core Hours. He advised that the restaurant would only be playing background music and that recorded and/or live music up to 23:00 hours was deregulated. He advised that all proposed conditions had been agreed with the Applicant and that the EHS was satisfied with the application.

Mr Samuel Countryman, local resident, advised the Sub-Committee that Wilton Road and the surrounding area was primary residential and was not a locale with a night-time economy. He stated that currently the local restaurants observed fairly early hours of closing but if this application was granted it would open the floodgates for similar applications from neighbouring Premises. He advised that he was not against Kazan or restaurants in general however there needed to be a balance of residential and commercial Premises within the area. He requested that the Licensing Sub Committee restrict the licensable activities to 22:00 hours.

Miss Christine Middleton, local resident, advised that the character of the area would change if Premises were allowed to operate late into the night. She advised that during the summer months she was unable to open her windows past 20:00 hours because of people hanging around the area after visiting the local pubs/restaurants. She echoed Mr Countryman that this was a high quality restaurant and that licensable activities should cease at 22:00 hours. She considered that this would reduce the noise, broken glass and anti-social behaviour on the streets. She confirmed that she had no concerns regarding the operation of the Premises.

During his summing up, Mr Nevitt advised that this was a food led establishment operating within the Council's Core Hours Policy and that the proposed conditions should alleviate the residents' concerns. He advised that all proposed conditions had been agreed with the Applicant and that the EHS was satisfied with the application.

During his summing up, Mr Hassan thanked the residents for their kind words. He emphasised that his restaurant was all about the food and all alcohol was ancillary to a table meal. He confirmed that he had agreed to all the proposed conditions from the Responsible Authorities. In response to Ms Walker, Legal Adviser to the Sub

Committee, he confirmed that he was happy to have Conditions MC34, MC35, MC43 and MC 64 regarding the collection of waste from his Premises and deliveries to his Premises and MC24 regarding providing a direct telephone number to residents attached to the Premises Licence.

Conclusion

The Sub-Committee has determined an application for a grant of a new Premises Licence under the Licensing Act 2003 ("The Act").

The Sub-Committee noted that they have a duty to consider each application on its individual merits.

The Sub-Committee noted that the Premises had been operated as a restaurant for years and that it was only due to an administrative error regarding a single word change in the company's name that had led the Applicant to apply for a new Premises Licence. The Sub Committee further noted that the Applicant had continuously paid his licence fee to the Council and the company had not gone into liquidation.

The Sub Committee noted that the Applicant was an experienced operator and the restaurant was part of a family owned business which had been operating since 1961. The Applicant had not requested an extension of his licensable activities and the restaurant was going to be operated within the Council's Core Hours Policy. It was noted that the Metropolitan Police Service had withdrawn their representation and the Environmental Health Service (EHS) were satisfied with the application.

The EHS advised the Sub-Committee that they did not have any specific issues with the Premises when it came to public nuisance and had only maintained their objections because the Premises were located within the Victoria Special Consideration Zone (VSCZ) and because of the residential objections.

The Sub Committee noted that there was no change in respect of the permitted hours, nor the capacity and the additional conditions imposed on the Premises would alleviate any residential concerns.

The Sub-Committee imposed additional Conditions on the Premises Licence regarding waste collection and deliveries to the Premises and the MC 24 which requires that a telephone number be made available for the Premises so that local residents and businesses in the vicinity can make contact should any problems arise.

In reaching their decision, the Sub-Committee concluded that the hours it imposed on the licence for the licensable activities applied for having regard to the Core Hours Policy was appropriate and proportionate and therefore struck the right balance when considering the needs of local residents and the Applicants commercial needs to be able to operate and run his business successfully.

Having carefully considered the committee papers and the submissions made by all the parties, both orally and in writing, **the Sub-Committee has decided after** taking into account all the individual circumstances of the application and the promotion of the four licensing objectives to **grant** the application with the following permissions:

1. **To grant permission for:**

Recorded Music (Indoors)

Monday to Saturday 10:00 to 23:00 hours

Sunday 10:00 to 22:30 hours

Seasonal Variations: None

Late Night Refreshment (Indoors)

Monday to Saturday 23:00 to 23:30 hours

Seasonal Variations: None

Sale by Retail of Alcohol (On and Off Sales)

Monday to Saturday 10:00 to 23:00 hours

Sunday 12:00 to 22:30 hours

Seasonal Variations: None

Hours Premises are Open to the Public

Monday to Saturday 10:00 to 23:30 hours

Sunday 12:00 to 23:00 hours

Seasonal Variations: None

2. The Licence is subject to any relevant Mandatory Conditions.
3. The Licence is subject to the following conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions imposed by the Committee after a hearing with the agreement of the Applicant.

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
11. The premises shall only operate as a restaurant,
 - (i) in which customers are shown to their table or the customer will select a table themselves,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
 - (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
 - (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

12. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
13. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a takeaway meal or meal consumed in a designated external seating area.
14. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
15. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
16. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the

premises by the Police or an authorised officer of the City Council at all times whilst the premises are open.

17. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
18. Patrons permitted to temporarily leave and then re-enter the premises, e.g., to smoke or make a phone call, shall not be permitted to take glass containers with them.
19. Deliveries will only be made to bona fide residential or business addresses.
20. A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the delivery personnel will carry out age verification on delivery. The customer will be asked to provide ID to prove their age in accordance with Challenge 21 or 25 scheme. If the rider is not satisfied, then the alcohol in the order will be withheld.
21. The premises licence holder will ensure that an age verification policy will apply whereby all delivery personnel will be trained to ask any customer to whom alcohol is delivered, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
22. All delivery personnel shall receive training in age restricted sales. Induction training must be completed and documented prior to the delivery of alcohol by the rider. Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months. Training records will be available for inspection by a Police Officer or other authorised officer on request. Training records will be electronically stored by the licence holder for a period of 12 months.
23. All delivery personnel shall be trained to record refusals of sales of alcohol in a refusal's log/register. The log/register will contain:
 - details of the time and date the refusal was made.
 - the identity of the delivery personnel refusing the sale.

- details of the alcohol the person attempted to purchase.

This log/register will be available for inspection by a Police Officer or other authorised officer on request.

24. The number of persons permitted in the Basement of the premises at any one time (excluding staff) shall not exceed 40 persons.
25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
26. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
27. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 and 08.00 hours on the following day.
28. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
29. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
2 March 2023**

2. KEBAB CENTRE, 368 HARROW ROAD, W9 2HU

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.1
("The Committee")

Thursday 2 March 2023

Membership: Councillor Aziz Toki (Chair) and Councillor Md Shamsed Chowdhury

Officer Support Legal Advisor: Vivienne Walker
Policy Officer: Daisy Gadd
Committee Officer: Sarah Craddock
Presenting Officer: Jessica Donavan

Others present: Nigel Carter (Carter Consultancy), Bashir Jafari (Applicant), Dave Nevitt (Environmental Health Service) and Richard Brown (Solicitor, Westminster's Citizens Advice), representing Diana Carrasco Vime (local resident)

Application for Variation of Premises Licence in respect of Kebab Centre 368 Harrow Road London W9 2HU - 22/ 11991/LIPV

Full Decision

Premises

Kebab Centre
368 Harrow Road
London W9 2HU

Applicant

Mr Bashir Jafari

Ward

Harrow Road

Cumulative Impact

N/A

Special Consideration Zone

N/A

Activities and Hours applied for

The Premises Licence Holder sought the following:

- To vary the hours for Late Night Refreshment to
Monday to Sunday 23:00 to 02:00 hours (collection)
Monday to Sunday 23:00 to 04:00 hours (delivery)
- To vary the opening hours to Monday to Sunday 10:00 to 04:00 hours
- To vary conditions 2, 3 and 4 to reflect the new timings subject to the variation being granted.

The Premises Licence Holder proposes the following to the Activities and Hours

- Late Night Refreshment (Collection)
Monday to Sunday 23:00 to 02:00 hours

Seasonal variations: None
- Late Night Refreshment (Delivery)
Monday to Sunday 23:00 to 04:00 hours

Seasonal variations: None
- Hours Premises are open to the Public
Monday to Sunday 10:00 to 04:00 hours

Seasonal variations: None

Summary of Application

This is an application for a variation of a Premises Licence under the Licensing Act 2003 (“The Act”). The Premises currently operate as a fast-food restaurant selling kebabs, burgers, chicken and pizzas. The Premises has had the benefit of a Premises Licence (16/07884/LIPN) since 2016.

Representations Received

Environmental Health Service
Two local residents

Issues raised by Objectors.

- The hours requested for Late Night Refreshment will have the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.
- If the application is granted it would be to harm the licensing objectives of prevention of public nuisance and prevention of crime and disorder.
- Concerns relate to:
 1. Noise Nuisance from delivery drivers and/or customers of the premises loitering in the Mews eating their food.

2. Anti-social behaviour from delivery drivers and/or customers of the premises loitering in the Mews eating their food.
 3. Residents feeling intimidated returning to their homes in the late evening or in the early hours.
 4. Litter and packaging left in the Mews.
- If the hours of this takeaway are extended it can only exacerbate:
 1. Noise and smells from its cooking
 2. Noise/disturbance as customers or deliveries attend
 3. Possible anti-social behaviour as people know it is open very late and make a point of stopping there.
 4. Increased rubbish as people eat their food in the street.

Policy Position

HRS1

Applications for hours outside the core hours set out in this policy will be considered on their merits, subject to not being contrary to other policies in the Statement of Licensing Policy.

FFP1

Applications outside the West End Cumulative Zones will generally be granted subject to not being contrary to other policies in the Statement of Licensing Policy.

SUBMISSIONS AND REASONS

The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application to the Sub-Committee. She advised that the Premises currently operates as a fast-food restaurant and that representations had been received by the Environmental Health Service and two local residents. She advised that the Premises is within the Harrow Road Ward but not within a Cumulative Impact Zone or a Special Consideration Zone.

Mr Nigel Carter, Agent for the Applicant addressed the Sub-Committee. He explained that the variation to the Premises Licence was for Late Night Refreshment to be provided until 02:00 hours for take away and 04:00 hours for delivery. He advised that the Applicant had been operating the Premises for fourteen years without incident or complaint and that he served a variety of food such as kebabs, burgers, pizzas, wraps and chips with cold beverages. He stated that since the COVID-19 pandemic people's eating habits had changed dramatically and now there was little or no demand for food during the lunchtime period and subsequently the Applicant now opened his Premises four hours later. He advised that this change has had a huge negative impact on the Applicant's takings and it had become increasingly difficult for Mr Jafari to earn enough money to cover his overheads as well as support his family.

Mr Carter referred to the revisions made to the Council's Statement of Licensing Policies in October 2020 which he advised was made specifically to deal with the increased demand for food and alcohol deliveries, largely as a result of the Pandemic. He emphasised and read out 'the ability to deliver late night refreshment

has become a key ancillary element to the primary operation of licensed Premises and the availability of third party delivery service has provided a cost effective option for licensed premises to sell their food and drink to customers.’ Mr Carter advised that for the past few months Mr Jafari had been working as a delivery driver after closing his Premises and had noticed that there was an increase in demand for hot food during the early hours of the morning. Mr Jafari had therefore seen an opportunity to recover his loses as well as provide a service to customers by offering takeaway food to 02:00 hours and delivery until 04:00 hours. Mr Cater emphasised that this was not a decision that Mr Jafari had taken lightly as it would impact on his time spent with his family, however, it was necessary as he was the sole earner in the family.

Mr Cater advised that Mr Jafari had agreed to all the conditions proposed by the Environmental Health Service and emphasised that residents living immediately above and next to the Premises had not made representations against the application. He referred to the representations that had been made regarding increased levels of public nuisance such as noise and/or cooking smells emanating from the Premises and explained that the Premises had highly effective extraction units fitted to its rear wall. He advised that there were no parking restrictions from 7.30pm Monday to Saturday and free parking on Sundays so customers could park directly outside of the Premises when collecting their food. There would be no need for customers to park and/or eat food in Chippenham Mews.

Mr Cater advised that the Premises were located in a mixed commercial and residential area with flats above commercial Premises along the Harrow Road. He highlighted that Mr Jafari had been granted four Temporary Event Notices (TENs) during October and November 2022 covering a total of 25 days allowing him to operate to the same hours as he was seeking to vary his Premises Licence. He advised there had been no complaints made to the Environmental Health Service or the Police which demonstrated that Mr Jafari could operate within these hours without adverse effect on the Licensing Objectives. He further advised that the granting of this variation would allow Mr Jafari to expand his business and that the conditions attached to the Premises Licence would alleviate residents’ concerns and promote the Licensing objectives.

In response to questions from the Sub Committee, Mr Cater advised that Mr Jafari and his son would be doing the deliveries. Mr Jafari advised that he anticipated that the variation would increase his turnover by 30% and that this would help him recover his loses from the lack of lunch time trade. He confirmed that there were no parking restrictions outside his Premises after 7.30pm so the collection and delivery of food should not impact on any of the neighbouring streets. He confirmed that residents living in the flats opposite, above and next to the Premises had been consulted and no representations had been received from them. Mr Jafari advised the Sub Committee that the extended hours for the delivery service up until 04:00 hours were the most crucial element of the variation application and he would be amenable to an earlier terminal hour for takeaway.

Mr Dave Nevitt, representing the Environmental Health Service (EHS) explained that EHS had maintained their representation because the variation to the Premises Licence was significantly greater than the Council’s Core Hours Policy for both collection and deliveries of takeaway hot food. He advised that the area consisted of

mixed commercial and residential properties and that the EHS was concerned about the potential disturbance from customers collecting their takeaway food late at night and the noise from vehicles delivering take away food. Mr Nevitt advised of the difficulties of operating both collection of hot takeaway food and delivery of hot take away food because of the issues that could arise if people turned up after 02:00 hours thinking the Premises were open.

Mr Nevitt confirmed that conditions had been agreed with the Applicant and that he considered that the equipment installed in the Premises would ensure that no noise or cooking smells would emanate from the Premises. He explained that there could be potential problems with people congregating outside of the Premises and third party delivery activities. He advised that it was for the Applicant to demonstrate how he would control and manage third parties delivering food to customers and for the Sub Committee to be satisfied that Mr Jafari had adequate controls over these activities. He referred the Sub Committee to proposed condition 22 which stated that all food deliveries must be made to a proper address so no food could not be ordered from a car or the street.

Mr Richard Brown, Solicitor, Westminster's Citizens Advice, representing two local residents living on Chippenham Mews, explained that the variation of the Premises Licence was for significant extensions for both the collection and delivery of take away food. He stated that fast food restaurants were honeypots for people who had been out drinking and who created noise nuisance by loitering outside of fast food establishments ordering and eating hot food before going home. He advised that no other Premises in the area had a Premises Licence for both collection and delivery for these hours. He referred to Chippenham Mews and advised that it was an extremely attractive and tranquil place which attracted people to sit/park and eat in the street late at night. He advised that delivery drivers caused additional noise nuisance and the attraction of hot food would encourage more people into the area which had the potential of causing anti-social behaviour, intimidation to residents and an increase in litter.

Mr Brown advised that the Council had recognised the economic importance of takeaway and delivery of food to businesses but in addition it had also recognised the need to limit the impact of these activities on residential areas and residents. He advised the Sub Committee that they needed to consider whether the Premises were located within an area or close proximity of residential accommodation and to ensure that the right balance was achieved. He advised that it was beneficial for the Premises to employ their own delivery staff as they had more control over them. He confirmed that a condition stating that the Premises employ their own delivery drivers would give comfort to residents. Mr Brown advised that Temporary Event Notices (TENs) were just a snapshot in time and not a permanent change to a Premises Licence.

During his summing up, Mr Cater advised that Mr Jafari was happy to accept the condition that he would directly employ his own delivery drivers. He emphasised that the Premises operated without complaint and that during the operation of the Temporary Event Notices there had been no adverse effects. He advised that if Mr Jafari needed to make a choice between collection or delivery of takeaway food, he would prefer delivery of food to be granted to at least 03:00 hours. He stated that

the granting of the variation would not cause significant detrimental issues to residents living around the Premises as Mr Jafari had been operating the Premises without complaint for the past 14 years.

Conclusion

The Committee has determined an application for a grant of a Variation to a Premises Licence under the Licensing Act 2003. The Committee is aware that it has a duty to consider each application on its individual merits when determining this application.

The Sub-Committee noted that the Applicant was an experienced operator in the running of these type of Premises and there had been no significant issues that had come to the attention of the Sub-Committee that would give cause for concern in relation to the management of the Premises on a day-to-day basis and the promotion of the licensing objectives.

The Sub-Committee considered the evidence as to how the Premises would deal effectively and efficiently with its delivery drivers and the consideration that was given to residents. The Sub-Committee was persuaded by the Applicant that he would be a responsible operator by having the necessary measures and safeguards in place in the running of the Premises that would help mitigate the concerns of those objecting and uphold the promotion of the licensing objectives.

The Sub-Committee, in its determination of the matter, concluded that the hours and the conditions it had imposed on the licence were appropriate and would promote the licensing objectives.

Having carefully considered all the committee papers, submissions made by the Applicant and the oral evidence given by all parties during the hearing in its determination of the matter **the Committee has decided**, after taking into account all the individual circumstances of this application and the promotion of the four licensing objectives:

1. To grant permission for Late Night Refreshment (Collection) Monday to Thursday 23:00 to 23:30 hours Friday to Saturday 23:00 to 00:00 hours Sunday 23:00 to 23:30 hours.
2. To grant permission for Late Night Refreshment (Delivery) Sunday to Thursday 23:00 to 02:00 hours Friday to Saturday 23:00 to 03:00 hours.
3. To grant permission for the Opening Hours of the Premises Sunday to Thursday 10:00 to 23:30 hours Friday to Saturday 10:00 to 00:00 hours.
4. To grant permission to amend conditions 2, 3 and 4 of the Current Premises Licence in the terms specified below.
5. That the existing conditions on the Licence shall apply in all respects except in so far as they are varied by this Decision.

6. That the varied Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to promote the licensing objectives.

Conditions: On Current Licence

Mandatory:

None

Annex 2 – Conditions consistent with the operating Schedule

None

Annex 3 – Conditions attached after a hearing by the licensing authority

1. Prominent signage indicating the permitted hours for walk-in service and home delivery services shall be displayed so as to be visible before entering the premises and at the point of sale.
2. There shall be no sales to persons actually attending the premises for hot food or hot drink for consumption "on" or "off" the premises after 23.30 hours Sunday to Thursday and after 00.00 hours (midnight) Friday to Saturday.
3. There shall be no sales of hot food or hot drink for home delivery after 02:00 hours Sunday to Thursday and on Friday to Saturday after 03:00 hours on the following day.
4. The menu board lights in the customer service area shall be turned off at 23.30 hours on Sunday to Thursday and at 00.00 hours (midnight) Friday to Saturday.
5. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 12 persons.
6. Notices shall be prominently displayed at the exit requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
7. No customers shall be permitted to use the garden at the rear of the premises at any time. The garden at the rear shall not be used by staff after 21.00 hours.
8. After 21:00 hours all external doors and windows to the rear garden shall be kept closed except for use in an emergency.
9. No noise generated on the premises, or by its associated plant or equipment or delivery cars/motorbikes, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

10. All windows and external doors shall be kept closed after 23:00 hours except for the immediate access and egress of persons.
11. There shall be no queuing outside the premises at any time.
12. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
13. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas including rear garden between 23.00 hour and 08.00 hour on the following day.
14. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23.00 hour and 08.00 hour on the following day.
15. No deliveries to the premises shall take place between 23.00 hour and 08.00 hour on the following day.
16. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents and businesses in the vicinity.
17. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
18. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
20. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

21. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed as soon as possible and in any event within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any visit by a relevant authority or emergency service.

Conditions imposed by the Committee after a hearing

22. Deliveries of food shall only be made to a bona fide residential or business address.
23. The Premises Licence Holder shall ensure that riders/drivers will be instructed not to loiter in the vicinity of residential premises.
24. The Premises Licence Holder shall ensure that riders/drivers will not be permitted to congregate in the immediate vicinity of the premises.
25. The Premises Licence Holder shall ensure that riders/drivers will not be permitted to smoke in the immediate vicinity of the premises.
26. Delivery drivers/riders shall be given clear written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside of the licenced premises.
27. All delivery drivers shall be directly employed by the Premises Licence Holder.

INFORMATIVE:

The Premises Licence Holder was reminded of paragraphs G6 to G11 of the Statement of Licensing Policy in relation to climate change.

This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
2 March 2023**

The Meeting ended at 1.00 pm