

Licensing Sub-Committee Report

Item No:	
Date:	8 December 2016
Licensing Ref No:	16/10101/LIPN - New Premises Licence
Title of Report:	Kilburn Food Centre 332 Kilburn Lane London W9 3EF
Report of:	Director of Public Protection and Licensing
Wards involved:	Queen's Park
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance Senior Licensing Officer
Contact details	Telephone: 0207 641 2751 Email: hlawrance@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	19 September 2016		
Applicant:	Kishore Natwarlal Vadera		
Premises:	Kilburn Food Centre		
Premises address:	332 Kilburn Lane London W9 3EF	Ward:	Queen's Park
		Cumulative Impact Area:	Not applicable
Premises description:	The premises currently operating as a supermarket.		
Premises licence history:	<p>The premise was granted a licence in May 2006.</p> <p>The premises licence was subject to a Licensing Review in July 2007 and conditions were added to the Licence.</p> <p>The premises licence was subject to a second Licensing Review In February 2016 and the premises licence was revoked.</p> <p>Full details can be found in Annex 3.</p>		
Applicant submissions:	None submitted.		

1-B Proposed licensable activities and hours							
Sale by retail of alcohol				On or off sales or both:			Off Sales
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	08:00
End:	03:00	03:00	03:00	03:00	03:00	03:00	03:00
Seasonal variations/ Non-standard timings:							

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	08:00	08:00	08:00	08:00	08:00	08:00	08:00
End:	03:00	03:00	03:00	03:00	03:00	03:00	03:00
Seasonal variations/ Non-standard timings:							
Adult Entertainment:		Not applicable.					

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Consultation Team
Representative:	Mr David Nevitt
Received:	22 nd September 2016

Representation is made in relation to the application, as the proposals are likely to increase Public Nuisance and may impact upon Public Safety.

Environmental Health has raised a Representation in respect of this application because the hours sought are beyond the 'Core Hours' as defined in the City Council's Licensing Policy. I recommend that the application is amended so as to fit the Core Hours.

In addition, I propose the following Conditions to be attached to the Licence:

MC01 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 is 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.

MC02 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 is 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.

MC13 Loudspeakers shall not be located in the entrance lobby or outside the premises building.

MC17 All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

MC21 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

MC28 Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.

MC29 No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.

MC30 No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.

MC31 No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.

MC32 There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.

MC33 Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.

MC47 A Challenge 21 or 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.

MC48 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 is open.

MC81 No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

I may also propose further Conditions following a site inspection.

NB: THE POLICE MAY ALSO SEEK CONDITIONS RELATING TO THE SALE OF ALCOHOL DURING THE WEEKEND OF THE NOTTING HILL CARNIVAL.

Responsible Authority:	Metropolitan Police Service
Representative:	Mr Reaz Guerra
Received:	23 rd September 2016

I am writing to inform you that the Police, as a Responsible Authority, object to your application for a New Premises Licence as it is our belief that if granted the application would undermine the Crime Prevention Objective.

There is insufficient detail in the operating schedule to address the Crime Prevention Objective and the hours sought exceed Westminster's Core Hours Policy.

It is for this reason that we are objecting to the application

2-B Other Persons	
Name:	Mr Jonathan Benacci
Address and/or Residents Association:	324 Kilburn Lane London London W9 3EF
Received:	16 th October 2016

I have witnessed that the number of disorderly people gathering around the shop late at night since the previous licence was revoked has reduced and has therefore made the area feel safer.

The shop has only just had its licence revoked and has a history of offenses including selling alcohol to minors, I therefore feel that there is no benefit to the area or community in granting a new licence, especially one which proposes selling alcohol seven days a week from eight am to three am the next morning.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:	
Policy HRS1 applies	<p>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</p> <p>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</p>

Policy OS1 applies:	Applications will generally be granted and reviews determined subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement.
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4. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity

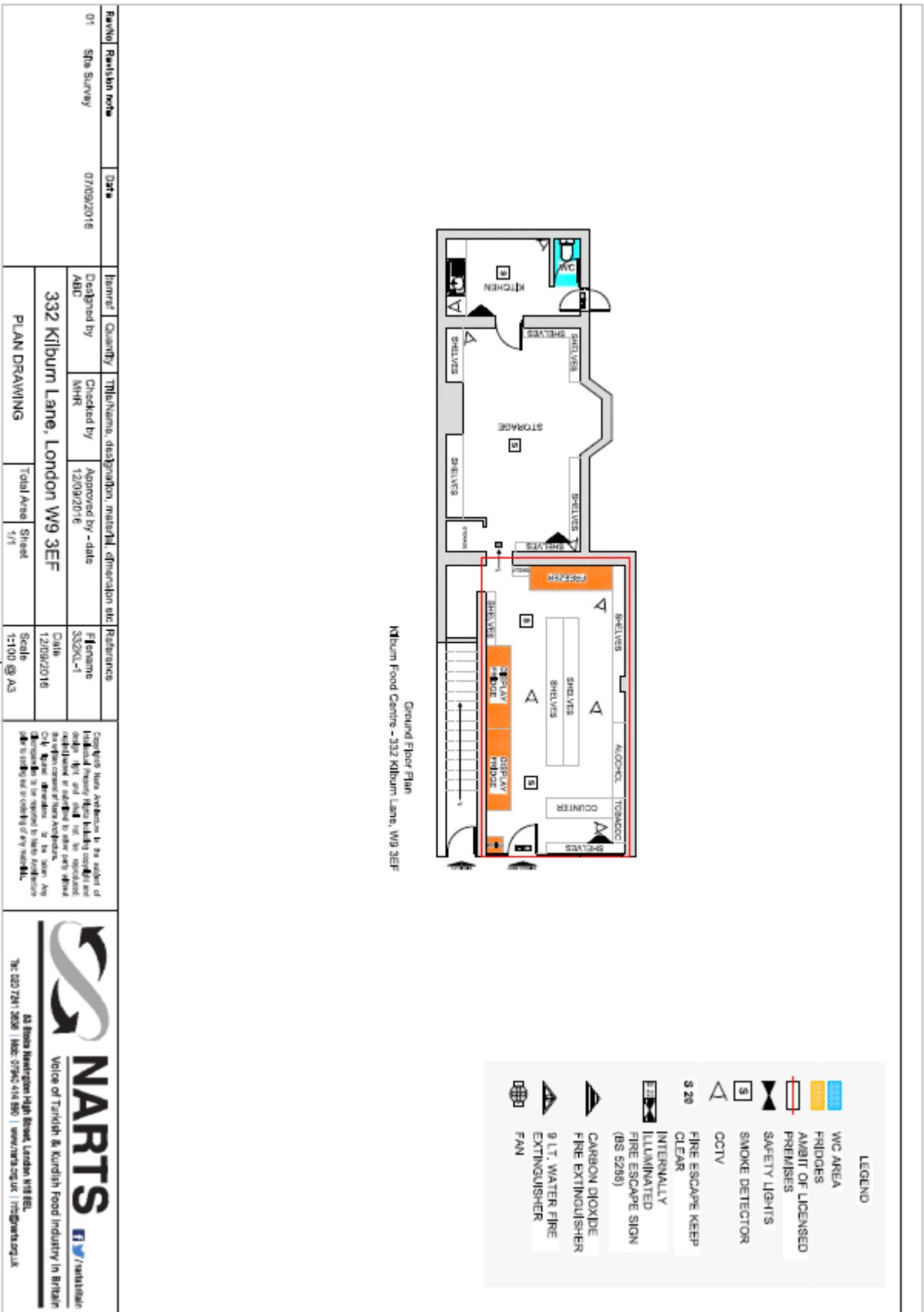
Report author:	Miss Heidi Lawrance Senior Licensing Officer
Contact:	Telephone: 0207 641 2751 Email: hlawrance@westminster.gov.uk

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015
4	Application Form	19 th September 2016
5	Representation – Environmental Health	22 nd September 2016
6	Representation – Metropolitan Police	23 rd September 2016
7	Representation – Mr Jonathan Benacci	16 th October 2016

Premises Plans



NARTS EV Partnership

Voice of Turkish & Kurdish Food Industry in Britain

65 Stone Mountain High Street, London N15 8EL.
 Tel: 020 7241 2020 | Mob: 07940 414 890 | www.narts.org.uk | info@narts.org.uk

Applicant Supporting Documents

None submitted.

Licence & Appeal History

Application	Details of Application	Date Determined	Decision
05/09842/LIPN	New premises Licence application		Application Withdrawn
06/02691/LIPN	New Premises Licence application	29/05/2006	Granted under Delegated Authority
06/04707/WCCMAP	Master Licence	05/07/2007	Granted under Delegated Authority
07/05789/LIPDPS	Vary the Designated Premises Supervisor	10/07/2007	Granted under Delegated Authority
07/08009/LIREVP	Premises Licence Review. Application made by MET Police following 3 underage sales on: 02.12.06 15.05.07 04.06.07	18/10/2007	Conditions added by Licensing Sub-Committee
16/02038/LIREVP	Premises Licence Review. Application made by the Licensing Authority following persistent breach of the premises licence conditions.	28.04.20116	Licence revoked by Licensing Sub Committee.

There is no appeal history

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
5.
 - (i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 - (ii) For the purposes of the condition set out in paragraph 5(i) above -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (iii). Where the permitted price given by Paragraph 5(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions consistent with the operating schedule

- 6. The DPS, a personal licence holder or trained member of staff nominated in writing by the DPS shall be on duty at all times the premises are open to the public.
- 7. a) A CCTV system covering the interior and exterior of the premises will be installed to current Metropolitan Police / Home Office standards and shall be kept operational at all times the premises are open to the public.
- b) It shall be capable of taking a head and shoulders shot of persons entering the premises, of recording images to an evidential standard in any light and be capable of storing images for a minimum of 31 days.

- c) All staff who may work front of house shall be trained to operate the CCTV system and download images.
 - d) At least one member of staff trained to operate the CCTV system and download images shall be on duty at all times the premises are open to the public. Footage shall be shown to the police and screenshots provided to them on request, copies of downloaded images shall be provided to the police on a USB stick, CD or other acceptable means as soon as possible and in any case within 24 hours of the request.
8. Challenge 25 shall be operated as the proof of age policy.
9. All staff who work at the till will be trained for their role on induction and be given refresher training every six months. Written training records will be kept for each staff member and be produced to Police and authorised Council Officers on request. Training will include identifying persons under 25, making a challenge, acceptable proof of age & checking it, making & recording a refusal avoiding conflict and responsible retailing.
10. An incident book shall be kept at the premises and made available to the police or authorised council officers officer's which will record the following:
- a. All crimes reported
 - b. Lost property
 - c. All ejections of customers
 - d. Any complaints received
 - e. Any incidents of disorder
 - f. Any seizure of drugs or offensives weapons
 - g. Any faults in the CCTV
 - h. Any refusals in the sale of alcohol
 - i. Any visit by a relevant authority or emergency service
11. Notices will be prominently displayed by the entry/exit door and point of sale (as appropriate) advising customers:
- a. That CCTV & challenge 25 are in operation
 - b. Advising customers of the provisions of the Licence Act regarding underage and proxy sales.
 - c. Of the permitted hours for licensable activities and the opening times of the premises
 - d. Not to drink in the street.
12. A fire risk assessment and emergency plan will be prepared and regularly reviewed. All staff will receive appropriate fire safety training and refresher training.
13. The front of the premises shall be kept tidy at all times and be swept at close
14. Relevant notices will be prominently displayed by the entry / exit door and point of sales (as appropriate).
15. No deliveries will be received or rubbish moved from the premises between 21:00hrs and 07:00 hours.
16. Any music played will only be played at background level.
17. An incident book shall be kept at the premises and made available to the police or authorised council officers.

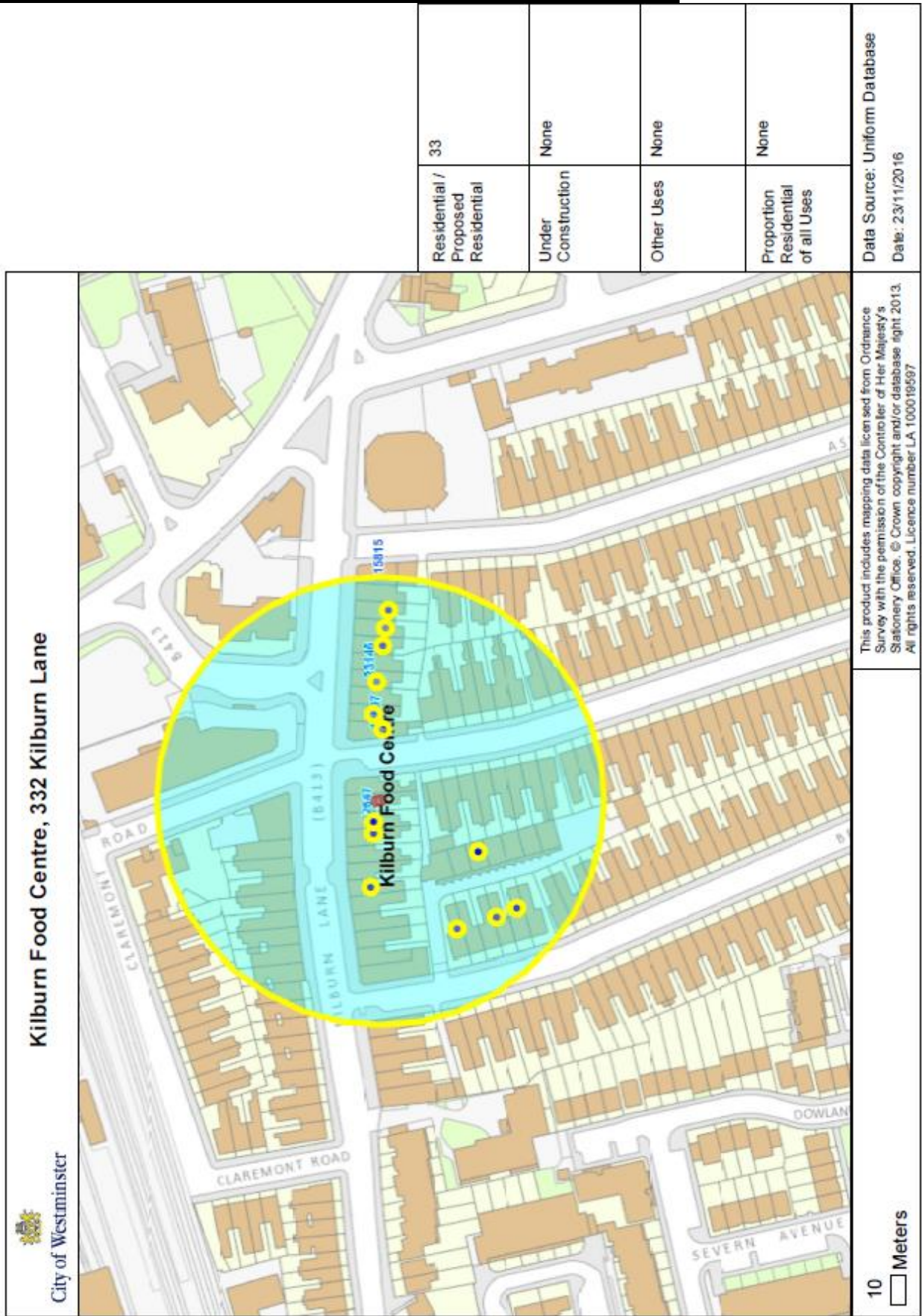
18. A phone number for the premises shall be made available if required upon the request to the police or any other responsible authority or any local resident to express any concerns caused by the operation of the premises, any complaints and the outcome will be recorded in the incident book.
19. Challenge 25 shall be operated as the proof of age policy and only a valid passport, photo driving licence, HM forces photographic ID card or proof of age card with the pass logo or hologram in it may be accepted as proof of age.
20. All refusals of the sale of alcohol shall be recorded in the refusals section of the incident book. The incident book shall be kept and produced to police & authorised council officers in request.
21. Relevant notices will be prominently displayed by the entry / exit door and point of sales as appropriate.
22. Unless an Epos system with an automatic proof of age check reminder incorporated in it is in use a manual prompt will be displayed by the till(s) to remind staff to check proof of age where appropriate.

Conditions proposed by the Environmental Health (*applicant has confirmed they agree to all of the below proposed conditions*)

23. 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 is 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.
24. 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 is 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.
25. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
26. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
27. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
28. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
29. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
30. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.

31. No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
32. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
33. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
34. A Challenge 21 or 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.
35. 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 is open.
36. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.

Residential Map and List of Premises in the Vicinity



Residential / Proposed Residential	33
Under Construction	None
Other Uses	None
Proportion Residential of all Uses	None

Data Source: Uniform Database
Date: 23/11/2016

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10 Meters

Premises within 75 metres of : Kilburn Food Centre, 332 Kilburn Lane

p / n	Name of Premises	Premises Address	Licensed Hours
22647	Ali Baba Kebab	330 Kilburn Lane London W9 3EF	Monday to Saturday 12:00 - 00:30 Sunday 15:00 - 00:30
-16373	Chicken Cottage	Ground Floor 338 Kilburn Lane London W9 3EF	Friday to Saturday 09:00 - 00:00 Sunday 09:00 - 22:30 Monday to Thursday 09:00 - 23:30
13697	Hilton Food And Wine	Ground Floor 336 Kilburn Lane London W9 3EF	Monday to Saturday 08:00 - 23:00 Sunday 10:00 - 22:30
-23146	Alimentari	Ground Floor 342 Kilburn Lane London W9 3EF	Monday to Sunday 09:00 - 21:00