



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday 3rd November, 2022**, This meeting will be an MS Teams Virtual Meeting.

**Members Present:** Councillors Aziz Toki (Chair), Angela Piddock and Tim Mitchell

#### 1. MEMBERSHIP

1.1 There were no changes to the membership.

#### 2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 1. 10AM: LEBANEATS, 13 MOOR STREET LONDON W1D 5AP

#### WCC LICENSING SUB-COMMITTEE NO. 1 ("The Committee")

Thursday 3 November 2022

Membership: Councillor Aziz Toki (Chairman), Councillor Angela Piddock and Councillor Tim Mitchell.

Officer Support:	Legal Adviser:	Steve Burnett
	Policy Officer:	Kerry Simpkin
	Committee Officer:	Sarah Craddock
	Presenting Officer:	Kevin Jackaman

Other Parties: Turabi Ay (Agent on behalf of the Applicant, Cholan Dharumalingham),

Jessica Donovan (Licensing Authority)  
PC Steve Muldoon (Metropolitan Police)  
Ayesha Bolton (Environmental Health)

Richard Brown, (Citizens Advice Westminster) representing The  
Soho Society - Tim Lord, Soho Ward Panel – Jane Doyle and  
Jason Fisher-Jones  
Tim Lord  
Jane Doyle  
David Kaner (Covent Garden Community Association)

**Application for a New Premises Licence in respect of Lebaneats 13 Moor  
Street London W1D 5AP - 22/08461/LIPN**

**FULL DECISION**

**Premises**

Lebaneats  
13 Moor Street  
London  
W1D 5AP

**Applicant**

Cholan Dharumalingham

**Ward**

West End

**Cumulative Impact Area**

West End

**Activities and Hours applied for**

**Sale of Alcohol on and off sales**

Monday to Sunday  
11.00 to 23.00

**Late Night Refreshment**

Monday to Sunday  
23.00 to 02.00

**The Opening Hours of the Premises:**

Monday to Sunday  
09.00 to 02.00

## **Summary of Application**

This is an application for a New Premises Licence under the Licensing Act 2003 ("The Act"). The premises is to trade as a small food outlet offering freshly made Middle Eastern cuisine to eat in or on the go. A small selection of alcohol will be sold with meals only with alcohol to be consumed on and off the premises or by delivery.

The Premises is located in West End Ward and is in the West End CIZ.

**There is a resident count of 55.**

## **Representations received**

Representations were received from the Licensing Authority (LA), Metropolitan Police Service (MPS) Environmental Health Services (EH), CGCA, Soho Society, Soho Ward Panel, 10 residents and 2 Ward Councillors.

## **Summary of Representations**

The thrust of those written objections received were on the grounds of prevention of crime and disorder, prevention of public nuisance, and the adverse effect on the West End Cumulative Impact Zone.

### **LA Stated:**

The Licensing Authority has concerns in relation to this application and how the premises would promote the Licensing Objectives:

- Prevention of Public Nuisance
- Prevention of Crime & Disorder
- Public Safety
- Protection of Children from harm

This premises is also located in a cumulative impact zone (CIZ) and therefore there is a presumption of refusal unless the applicant can show exceptional reasons as to why the application should be granted and that he complies with the policy requirements in Westminster's Statement of Licensing Policy (SLP).

### **MPS stated:**

The Metropolitan Police Service (MPS) objects to this application as it is likely that if the application were to be granted, the premise would undermine the Prevention of Crime and Disorder.

There is also insufficient detail given by the applicant or contained within the application to help promote the Licensing Objectives or not to add to the cumulative effect of licensed premises in the area.

### **EHS stated:**

1. The hours requested for the Late-Night Refreshment will have the likely effect of causing an increase in Public Nuisance within the area.

2. The hours requested for the Supply of Alcohol will have the likely effect of causing an increase in Public Nuisance within the area and may impact on Public Safety.

The granting of the application as presented would have the likely effect of causing an increase in Public Nuisance and may impact on Public Safety within the West End CIZ.

**The Residents Association stated:**

- The CGCA, Soho Society and Soho Ward Panel are concerned that if granted for LNR and sale of alcohol as applied for, this will fail to support the Licensing Objectives, particularly related to Public Nuisance and crime and disorder after 23.00.
- The premises are located in a cumulative impact area and the hours are in excess of core hours. There is no exception shown as to why the Committee should depart from CIZ policy.

**The Residents state:**

- The premises has 2 seats therefore customers will congregate, eat and drink outside the premises and add to noise, nuisance and anti-social behaviour already in the area.
- The grant would attract crime and disorder and public nuisance based on its location and nature of operation as a late-night takeaway and delivery service.
- The operation is against policy FFP1
- Previous unlicensed operation caused no impact.
- Conditions do not mitigate the impact of the operation.

**Ward Councillors stated:**

- The applicant has not rebutted the presumption against the grant the application.
- Congregation of customers outside the premises is likely to cause a nuisance.
- SIA door staff is normally suggested at premises in the CIZ area.
- The West End is one of the top areas for alcohol related crime.

**Policy Position**

**HRS1**

B. Applications for hours outside the core hours set out in Clause C will be considered on their merits, subject to other relevant policies, and with particular regard to the following:

1. The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associated with the likelihood of the effect of the grant of a

licence for later or earlier hours on crime and disorder, public safety, public nuisance and the protection of children from harm.

2. If the application is located within a Special Consideration Zone they have demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation.

3. Whether there is residential accommodation in the proximity of the premises that would likely be adversely affected by premises being open or carrying out operations at the hours proposed.

4. The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.

5. The proposed hours when any music, including incidental music, will be played.

6. The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.

7. The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.

8. Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.

9. The capacity of the premises.

10. The type of use, recognising that some venues are more likely to impact the licensing objectives than others; for example, pubs and bars are higher risk than theatres, cinemas and other cultural and sporting venues due to the nature of the operation.

11. The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

12. Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

13. The council, acting as the Licensing Authority, may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

14. Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by Temporary Event Notices or variation applications

## **CIP1(A)**

It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone for: pubs and bars, fast food premises, and music and dancing and similar entertainment.

**D11.** The Cumulative Impact Policy provides a presumption to refuse pubs and bars, music and dance venues and fast-food premises. This policy is intended to be strict and will only be overridden in genuinely exceptional circumstances. However, the Licensing Authority will not

apply these policies inflexibly. It will always consider the individual circumstances of each application; even where an application is made for a proposal that is apparently contrary to policy<sup>27</sup>.

**D12.** Applicants for premises uses that have a presumption to refuse will be expected to demonstrate an exception as to why their licence application should be permitted. It is not possible to give a full list of examples of when the council may treat an application as an exception. However, in considering whether a particular case is exceptional, the Licensing Authority will consider the reasons underlying the West End Cumulative Impact Zone special policy and the relevant premises use policies when considering applications.

## **FFP1 B**

B. It is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council's Core Hours Policy HRS1, and/or,
2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

## **SUBMISSIONS AND REASONS**

1. Mr Jackaman outlined the application to the Committee. The Committee was advised by Mr Jackaman that representations had been received from the LA, EH, the MPS and 15 interested parties.
2. Mr Turabi, agent for the Applicant outlined the application before the Committee. He explained that he had seen the representations and had positive discussions with the relevant authorities. He informed the Committee that as a result, he would like to amend the original application. The Applicant will retain the hours for the sale of alcohol. For late night refreshment and closing times, the premises now will trade core hours for fast-food premises, namely Mondays to Thursdays until 23.30, Fridays to Saturdays until 00.00 and no extension on Sundays
3. Mr Turabi advised that the Applicant serves Middle Eastern foods but would like to provide limited alcohol offering in the form of small bottles of wine and some bottled and canned beers. There will be no service of spirits.
4. The premises only have the benefit of seating for two customers and if there are issues inside or outside the premises, Mr Turabi stated the staff will be proactive and address the issues.
5. Mr Turabi stated that the Applicant has agreed conditions to address the potential issues in the area and they would like a chance to show their ability to operate the premises without problems and failing this, review proceedings can be instigated. Mr Turabi advised that he agrees with the conditions

proposed by the EHS and that no alcohol will be sold for consumption on the premises.

6. Mr Turabi explained the types of food to be sold and that they were intending to cater mainly for theatre goers. If they are given the opportunity and are successful, they would then return to the Committee for later hours.
7. In response to questions from the Committee, Mr Turabi explained that the service of food would be quick and that they do not anticipate long queues. However, they have not been operating for very long. Deliveries would be by way of electrical bikes. He confirmed that there would be 3 members of staff on site and as this was a new business, they will assess staff requirement based on peak hour requirements. The staff will know their responsibilities and it is in their best interest to control the queues. They have been operating the site since summer of 2022 and the owners and investors have experience in the catering industry and have premises located in Soho, the West End and busy areas of central London. However, these could not be identified.
8. Mr Turabi confirmed that they would accept a condition restricting the sale of alcohol to small bottles of wines and beers.
9. In response to a query from CGCA, Mr Burnett, Legal Advisor explained that any restrictions on the type of food sold would be at the discretion of the Committee, but any condition would only apply to the hours which exceed 23.00. The operator would therefore be at liberty to sell any type of hot food and hot drinks from opening time to 23.00 Mondays to Sundays.
10. Kerry Simpkin, Policy Officer confirmed that the application required consideration of FFP1, CIP1 policies and therefore it is the applicant's duty to provide exceptional reasons why the Committee should depart from the presumption to refuse this application for this premises located in the West End CIZ.
11. Jessica Donovan on behalf of the LA informed the Committee that their representation remains. The premises is located in an area of many pubs, clubs and wine bars. The Applicant is required to provide exceptional circumstances why the Committee should depart from policy. The LA had suggested conditions but had not received a response from the Applicant. The LA agree with the proposed conditions from The EHS.
12. The EHS noted that the Applicant had agreed to Core Hours and that there was no longer an application for on sales of alcohol, as there were no public toilet facilities at the premises. Ms Bolton also noted that her proposed conditions had been agreed.
13. PC Muldoon on behalf of the MPS informed the Committee that the police had maintained their representations as the hours sought for Late Night Refreshment, go beyond Westminster's Core Hours Policy and as the premises is located in a CIZ, they also object to the sale of alcohol.

14. PC Muldoon added that the police further believed that if granted, the application would undermine the licensing objectives in relation to the Prevention of Crime and Disorder. PC Muldoon referred the Committee to crime data which show the location of the premises as a crime and antisocial behaviour hotspot. He referred to the number of late-night drink led venues and that a takeaway would attract customers from those venues, who are then likely to remain in the area whilst they queue and consume their food.
15. MPS refuted that contact with the Applicant was positive, as his visit to the premises identified that the Applicant and DPS had no knowledge of the issues in CIZ and he had to email the policy to the Agent representing the operator. The police had only ever seen one member of staff at the premises.
16. MPS confirmed that the premises is small and will unlikely be able to handle queues. The provision of LNR and the sale of alcohol for consumption off the premises would compound the risk of crime and disorder and nuisance. In fact, since 1 October, PC Muldoon stated that there have been 10 occasions where Police have had to implement section 35 Anti-social Behaviour, Crime and Policing Act 2014 dispersal orders which allows police the power to disperse people who had congregated in the area.
17. In response to questions from the Committee, PC Muldoon confirmed that even with a reduction in the trading hours of the premises, the premises would be open after pubs had closed. Customers would be attracted to the food led venue and there would then be an increased risk of crime and disorder and public nuisance. The sale of alcohol from the premises would also lead to more street drinking.
18. Mr Brown on behalf of his clients, made his submissions to the Committee stating that this was the second application for this site. The first application requested late night refreshment until 05.00.
19. Mr Brown confirmed that the policy presumption to refuse exists irrespective of hours applied for and the MPS evidence identifies the owner and DPS has no knowledge of their responsibilities under the Act.
20. Mr Brown confirmed that there were residents opposite and adjacent to the premises and they have expressed concerns about the application and their struggle with crime and disorder, and public nuisance in the area, a view supported by MPS crime data evidence. He submitted that fast food premises will attract customers who have been drinking in the area and will retain them in the CIZ.
21. On behalf of the residents, the Committee heard evidence from Mr Drinkwater, Mr Lord, Ms Doyle and Mr Kaner that having heard submissions from the Applicant, they did not accept that exceptional circumstances had been demonstrated.



22. The residents and associations stated that a new take away venue would result in customers being attracted to the area, staying in the area, consuming food and alcohol around the premises and consequently causing residents to be even more disturbed late at night, than they already are. The Committee was informed of the lack of public toilets at the premises caused concerns.
23. The Committee were further informed that if the Applicant were catering for theatre clientele, they would not need to remain open until 00.00. The CGCA explained crime reports up to June 2022 which showed a dramatic increase in local crime which is more than the reported incidents in the entire Borough of Merton.
24. The CGCA, supported by Soho Ward Panel and Soho Society and other residents in attendance confirmed to the Committee that Late night refreshment and sale of alcohol for consumption off the premises will attract and retain people in the area which will give rise to crime and disorder and to public nuisance and add to cumulative impact in the area.
25. Mr Burnett then discussed the conditions agreed and offered with the Applicant.

### **DECISION**

26. The Committee realises that it has a duty to consider each application on its individual merits and did so for the purposes of this application.
27. It was noted by the Committee that the Applicant had reduced the hours for Late Night Refreshment and the operating times to comply with Westminster City Council's Core Hours Policy. The Applicant had also withdrawn his application for on sales of alcohol and agreed conditions with the LA and EHS. However, the Committee noted that the rebuttable policy presumption to refuse a premises licence application for a site in a CIZ exists, irrespective of hours.
28. The Committee was not persuaded that an exception had been proven by the Applicant, nor that the application had met the policy requirements under the SLP.
29. The Committee using its discretionary powers, concluded that Paragraph D12 and other relevant policy requirements under the SLP had not been met by the Applicant. This is an application for a premises licence for a small, fast-food operation and there are no arguments advanced by the Applicant which convinced the Committee that an exception exists, to allow them to use their discretion to depart from the CIP1 policy.
30. The Committee considered all the evidence before it and the arguments advanced in writing and orally by all parties. The Committee considered SLP in particular, but not limited to paragraphs D4, D5, D12, F56. The Committee also considered the Act and the Revised Guidance issued under section 182 of the Act.

31. The Committee arrived at this decision based upon the Applicants' written and oral submissions and the compelling written and oral evidence, from the relevant authorities and other parties.
32. Having carefully considered the committee papers, the additional papers, the submissions made by all of the parties, the individual circumstances of this case and the promotion of the four licensing objectives, **the Committee has decided to REFUSE** the application.

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

**The Licensing Sub-Committee  
03 November 2022**

**2. 2PM: UNIT 34, TUBE LEVEL ONE, PADDINGTON SQUARE, 144 PRAED STREET LONDON W2 1HU**

- 2.1 This application was Granted under Delegated Authority.

The Meeting ended at 11.53 am