



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Thursday 26th October, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Angela Piddock (Chair), Iman Less and Melvyn Caplan

Apologies for Absence: Councillor Hyams.

1. MEMBERSHIP

- 1.1 It was noted that Councillor Caplan had substituted for Councillor Hyams.
- 1.2 Councillor Hyams sent her apologies.

2. DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

1. FORA SPACE, 14 BIRD STREET, W1U 1BU

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4 **("The Committee")**

Thursday 26 October 2023

Membership: Councillor Angela Piddock (Chair),
Councillor Iman Less
Councillor Melvyn Caplan

Others present: Alun Thomas (Solicitor, Thomas and Thomas), Laura Maloney
(for the Applicant)
Maxwell Koduah (Environmental Health Service - EHS)
Margaret Parnham (Resident Manager Phoenix Building) for
Lorraine Le Mare.
Alan Porter

Application for a New Premises Licence for Fora Space, 14 Bird Street, London, W1U 1BU - 23/04507/LIPN.

Full Decision

Premises:

Fora Space
14 Bird Street
London
W1U 1BU

Applicant

Fora Space Limited

Ward

West End

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 (“The Act”). The premises is an office building operated by Fora Space Limited (part of The Office Group), who provide flexible workspace in central locations, with individual offices, meeting rooms, co-working, lounge and café facilities.

These premises are not open to general members of the public.

Cumulative Impact Zone.

None

Special Consideration Zone:

None

There is a resident count of 101

Application

To Permit:

Late Night Refreshment (Indoors)

Monday to Thursday 23.00 to 23.30

Fridays and Saturdays 23.00 to 00.00

Sale of Alcohol

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00

Sundays 11:00 to 22.30

Recorded Music (Indoor)

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00

Sundays 11:00 to 22.30

Films (Indoor)

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00

Sundays 11:00 to 22.30

Opening Times

Monday to Sunday 00:00 to 00:00

Representations Received

- Maxwell Koduah – Environmental Health Services (EHS)
- Elizabeth Virgo – Paddington Waterways and Maida Vale Society
- Residents x 24

Issues raised by Objectors.

The EHO have concerns that as presented, the application would have the likely effect of causing an increase in Public Nuisance and may affect Public Safety within the area.

The residents state that The Phoenix contains 60+ residential units, and whatever happens in that street by way of noise, smells, traffic has a direct and immediate impact on the quality of life of a great number of residents.

Until approx. two years the property was simply an office block.

Since Fora opened the workspace in its new guise the increased disturbance in Bird Street has been noticeable. We have a marked increase in deliveries and the reversing vehicles do cause noise. Those using the workspace come out onto Bird Street to smoke during breaks. Smoke already gets into our living space through open windows as does the noise from those assembling outside.

Now, a licence is sought so that films may be shown, alcohol supplied, music played until well into the night. Clearly, this is a massive change in the use of this space which does not fit well in a quiet residential street. All of the disturbance we already have to tolerate will inevitably increase and be extended into the night time.

Policy Considerations

Policy HRS 1 states:

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

Policy COMB1 states:

A. Applications outside the West End Cumulative Impact Zone for premises that propose to operate as a 'combined use premises' will be considered on their merits and subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities for the relevant use being within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or latenight refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zone policy SCZ1 if the premises are located within a designated zone.

C. When considering what weight is to be given to the relevant uses and policies the Licensing Authority will take into account:

1. Whether it will undermine the licensing objectives.
2. The current and proposed use of the premises.
3. When those uses will take place.
4. What the primary use of the premises is or the uses that will take place in different parts of that premises.
5. Whether there would normally be a presumption to refuse an application for that use if it was operating as that premises type and not a combined use premises.
6. Whether the hours sought for the all or parts of the premises are within or outside the Core Hours.

D. The Licensing Authority will take into account, when considering the application, the relevant considerations from each of the appropriate premises uses policies within this statement.

E. For the purpose of this policy a Combined Use Premises means premises which require a premises licence and where there is more than one premises use, and where the uses are not dependent on/ or part of the other uses i.e. are not ancillary to the other uses.

SUBMISSIONS AND REASONS

The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application to the Committee.

Mr Thomas on behalf of the Applicant informed the Committee that the Premises has been open since March and its operation has not attracted any complaints. There are concerns from residents about smokers and deliveries.

The sale of alcohol will take place on the 4th and 5th floors which will be used by members only.

The Committee were told that the maximum capacity on the 4th and 5th floors is 110 and events which will be pre-booked, will take place in those areas. Entry to the Premises as well as the events is controlled by staff. Off sales of alcohol is restricted by conditions and the times applied for comply with Westminster's Core Hours Policy.

In response to questions from the Committee, the Applicant confirmed that there will be no DJ performances and the application for regulated music is purely as a precaution, but it is not needed. Mr Thomas stated there may be some music for events, and some low-level background music during the day. When asked about live music, Mr Thomas said this would be rare.

The Committee noted the conditions detailed from page 35 of the Agenda papers and in particular condition 9.

The EHS confirmed the agreed conditions and stated the first people at risk of noise nuisance would be office workers, so it is in the Applicant's best interest to manage events carefully. He also suggested that there could be a limit on the number of smokers and residents to be provided with a contact number for the office manager (MC24).

The Committee was informed by Ms Parnham and Mr Porter that Bird Street is a hollow area which causes an echo of any noise made. and delivery trucks caused a disturbance. Delivery of glass and bottles will have an impact. Smokers are already having an impact by smoking under the covered street area of Phoenix residential building. The residents felt that the nature of the operation is changing from an office block to a more intrusive operation which involves more smokers, deliveries, music and sale of alcohol.

The Sub-Committee were informed by the residents that Bird Street had school age children and elderly people who would suffer from noise. Local residents asked for deliveries to be limited from between 08:00 and 18:00 only.

Mr Thomas agreed to the addition of MC24 but stated that the office users are not the only people who smoke outside the Phoenix, so management of people at an event outside smoking would be difficult.

Mr Thomas suggested management of events by having a terminal hour of events of 23.00, restricting the capacity and use of the terrace until 22.00. He also agreed to a condition limiting the number of events.

Deliveries will also not commence until 08.00 as detailed in the agreed conditions.

DECISION

The Committee has determined an application for a grant of a New Premises Licence under the Licensing Act 2003.

The Committee notes that the Applicant has applied for Core Hours and that the Premises is not in a CIZ or SCZ area. Importantly, the Committee is aware that even

if a Premises Licence was not granted, any person, irrespective of whether they are members or not, could use the event space and would be able to operate by purchasing alcohol from an off licensed premises and consuming it at the premises without any controls by conditions or under the Act.

The agreed conditions give the Committee confidence that the Applicants had made concessions to ensure the operation does not adversely affect the Licensing Objectives

Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has decided**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To GRANT permission for:

Late Night Refreshment (Indoors)

Monday to Thursday 23.00 to 23.30

Fridays and Saturdays 23.00 to 00.00

Sale of Alcohol (Both)

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00

Sundays 11:00 to 22.30

Films (Indoor)

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00

Sundays 11:00 to 22.30

Opening Times

Monday to Sunday 00:00 to 00:00

2. To REFUSE permission for:

Recorded Music (Indoor)

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00

Sundays 11:00 to 22.30

3. Relevant Mandatory Conditions to apply.

4. Conditions proposed by the applicant to from part of the operating schedule.

9. The premises shall be operated as a serviced office space only (to include drop-in/co-working shared workspace, meeting rooms, and private offices on flexible agreements, along with meeting rooms, and uses ancillary to this main use).

10. A list of the names of persons attending shall be kept on the premises at all times. The list shall be produced on demand for inspection by the police or an authorised officer of the Council.

11.

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

12. A staff member from the premises who is conversant with the external management company who operate 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 access to the recordings of recent CCTV images or data with the absolute minimum of delay when requested.

13. There shall be no advertising displayed on the building of the licensed facilities save for the name and nature of the business.

14. A Challenge 21 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.

15. 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 shall 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.

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

17. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

19. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

20. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

21. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

22. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

23. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall only be consumed inside 14 Bird Street, London.

24. 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.

25. No regulated entertainment shall be permitted in any external area.

26. The Licence holder shall ensure a full risk assessment is completed for all pre-booked events in the event space. This risk assessment shall be available to the licensing authority and Police upon request.

27. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as offices/workspace.

28. There shall be no sales of alcohol for consumption off the premises after 23:00 hours

29. 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.

30. No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.

31. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

32. 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

33. The sale of alcohol shall be restricted to the 4th and 5th floors only.

34. The use under this licence shall be ancillary to the office use of the premises and alcohol may only be sold to:

- a. Office tenants - those persons with a minimum three-month contract to occupy office space at these or other Fora Spaces /Office Group premises.
- b. Club Room members - those persons who pay a minimum membership of £150 per calendar month;
- c. Virtual office members - those persons who pay a minimum of £30 per calendar month and who pay a minimum charge of £10 per admission to the premises;
- d. Persons attending a private pre-booked event or function, a list of functions to be kept at reception for inspection by the relevant authorities;
- e. Directors and employees of the licence holder and its affiliated companies;
- f. Persons who have pre-booked a meeting room and paid a minimum charge of £20 per visit;
- g. Any guest of the above.

35. The consumption of alcohol shall be restricted to the premises and terraces at address 14 Bird Street, as shown on the approved plans.

36. All events involving licensable activities, shall be supervised by Fora Space Limited staff members at all times.

37. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

38. The total capacity of persons present at events on the 4th and 5th Floor of the Premises shall not exceed 110 (excluding staff)

39. The terrace areas shall not be used during events after 22.00 hrs, except in the event of an emergency or for maintenance.

40. The number of events involving a capacity of 50 or more persons (excluding staff) shall not exceed 75 events per annum.

41. The terminal time for events which include licensable activities shall be no later than 23.00.

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

**The Licensing Sub-Committee
26 October 2023**

2. CHICKEN COTTAGE, 135 PRAED STREET, W2 1RL

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4
("The Committee")

Thursday 26 October 2023

Membership: Councillor Angela Piddock (Chair),
Councillor Iman Less
Councillor Melvyn Caplan

Others present: Guy Ladenburg (Counsel for the Applicant),
Sayed Hasson (The Applicant) – present online
Sally Fabbricatore (Environmental Health Service - EHS)
Richard Brown (Licensing Advice Project Citizens Advice
Westminster) on behalf of:

- 1) HPEA– Susie Burbridge.
- 2) PWMVS
- 3) SEBRA – John Zamit

**Application for a variation of a variation of a Premises Licence for Chicken
Cottage, 135 Praed Street, W2 1RL – 23/01819/LIPV**

Full Decision

Premises:

Chicken Cottage,
135 Praed Street,
London
W2 1RL

Applicant

Hasan Syed

Ward

Hyde Park

Summary of Application

This is an application for a variation of a premises licence under the Licensing Act 2003 ("The Act"). This variation application seeks to permit the following:

To vary the existing premises licence to:-

- 1) Remove the following two conditions:-

16. There shall be no sales of hot food or hot drink for consumption off the premises after 00:00; and

17. There shall be no home delivery service of any kind from the premises.

2) Include model condition 98 to promote the licensing objectives:-

MC98 Delivery drivers 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 the license premises;

1. not to leave engines running when the vehicles are parked;
2. not to obstruct the highway.

3) Licensable activities, hours and layout - No changes

The premises have had the benefit of a premises licence since February 2017. The current premises licence reference is 23/00479/LIPRW.

Operated under TENs and further submissions have been provided in the additional material.

Cumulative Impact Zone.

None

Special Consideration Zone:

None

There is a resident count of 58

Representations Received

- Anil Drayan – Environmental Health Services (EHS)
- Ms Voronova
- Susan Burbridge and Richard Cutt - Hyde Park Association
- Elizabeth Virgo – Paddington Waterways and Maida Vale Society
- John Zamit – South East Bayswater Residents Association

Issues raised by Objectors

1. The removal of condition 16 and 17 may increase Public Nuisance in the area.
2. An additional condition is considered to be insufficient to allay Environmental Health concerns.
3. Causes the residents nuisance at night already. Delivery riders congregate around the premises playing music and shouting. Staff at the premises have no control.
4. We need to keep the balance between business and residents.

5. The footfall and delivery scooters will exacerbate the situation and potentially add to anti social behaviour.
6. Nuisance, litter, noise, waking up residents when making deliveries etc will be detrimental to the area.
7. When delivery scooters, bikes etc stop and wait for collection, they are bound to cause blocking road, especially when buses stop to discharge or pick up passengers.
8. WCCs concerns with fast food premises operating late at night are clear from the FFP1 policy

Policy Considerations

Policy HRS 1 states:

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

C. For the purpose of Clause B above, the Core Hours for this application as defined within this policy is:

Fast Food: Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to Midnight. Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to Midnight

Policy FFP1(A) states:

A. Applications outside the West End Cumulative Zones will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a fast food premises in Clause D.

D. For the purposes of this policy a Fast Food Premises is defined as:

1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.
2. Food and drink are: a. Available on the premises for self-selection. b. Prepared on the premises. c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.
3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.

4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

SUBMISSIONS AND REASONS

The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application to the Committee.

Mr Ladenburg informed the Committee that the Applicant was a resident in the area and took over operation of the Premises in 2013. The Applicant understands the issues in the area but does not foresee a problem with customers eating on the premises. He has used TEN's for only Saturdays and Sundays to remove conditions 16 and 17. The Premises trade under the TENs did not attract complaints. However, there is an accepted breach of those conditions which has resulted in the submission of this application.

Mr Ladenburg directed the Committee to the written submissions and said that there has not been any outreach to residents, but this was due to a change in solicitors and movement in the parent company. The Applicant apologised.

Mr Ladenburg said that there will be third party deliveries from UberEats and Deliveroo as Mr Syed Hassan, the operator, has been unable to find drivers of his own. Mr Ladenburg said that the application suggested numerous conditions including a condition on a patrol from a member of the premises at 21.00, which Mr Ladenburg said would now start later at 23.00.

Counsel advised the Committee that during the Coronavirus pandemic, the demand for deliveries increased significantly. Mr Ladenburg said he understood that there could be a public nuisance increase from third party deliveries but that the patrolling offered by the Applicant was a very visible and effective way to reduce this occurring. The Committee asked why the patrolling had been moved to 23.00 from 21.00. Mr Ladenburg said that this was a better time in terms of potential nuisance.

The Committee also queried where delivery drivers would wait. Mr Ladenburg said that the seating inside allows sufficient space for delivery drivers to wait. When asked where drivers would be able to wait if the premises had all seats in use and people waiting for food inside, Mr Ladenburg said they would then in this instance wait outside. From 23.00 staff would also be patrolling this area to make sure drivers were being quiet. The Applicant felt that takeaways and deliveries could be conducted at the Premises without issue.

Mr Syed Hassan, the Applicant, addressed the Committee said that there was a Subway and a Kentucky Fried Chicken operating on the same street operating late licences. Mr Hassan said that drivers are already on the street for these two venues. Mr Hassan said that there are AirBNB's operating in the area showing how it was not entirely residential and the dwellings were not continuously occupied. Mr Hassan said that the economic situation was very difficult, and an increase in operating hours would enable him to generate more revenue.

Mr Hassan stated to the Committee that he is not aware of delivery vehicles blocking or causing an obstruction on the public highway.

The EHS informed the Committee that although there have been no complaints levelled at the Premises there was a breach of the conditions on the current Premises Licence. There is concerns about nuisance from delivery drivers and she questioned how effective a patrolling member of staff would be in controlling the noise from delivery drivers and vehicles.

Mr Brown stated other venues on the street had received many complaints from local residents on noise and said this venue could easily increase this. Mr Brown said that the issue with delivery drivers was not when they were due to collect food, but when the drivers congregate outside a premises waiting for an order to come in. Mr Brown said he would accept core hours for those eating in.

A representative from the Hyde Park Estate Association addressed the Sub-Committee saying that Praed Street was very narrow, and there was not much space for people to stand and wait for deliveries. They also said that the noise from general conversation is enough to disturb local residents and complaints to these companies had been made but to no avail. Members heard how Praed Street was a two-way street and the congregation of bikes had stopped a bus being able to move freely on the street.

South-East Bayswater Resident Association stated they want the whole application refused.

Mr Brown said that the policy of Westminster City Council favours directly employed delivery drivers for a reason, and that reason was that the premises has direct control over them. Mr Brown said this would not be the case under this operator as Mr Hassan had said he had not been able to recruit drivers of his own.

DECISION

The Committee has determined an application for a grant of a variation of a Premises Licence under the Licensing Act 2003.

The Committee noted and are aware of the concerns relating to delivery drivers including Policy references. The Committee recognised the need for good operators who comply with conditions on their Premises Licence.

The Committee also had regard to the fact that there is limited control of the behaviour of 3rd party delivery operators, which causes residents concern.

Having carefully considered the Act, Westminster's Statement of Licensing Policy, the sec 182 Guidance, committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has decided**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To REFUSE permission to:

Remove the following condition: -

16. There shall be no sales of hot food or hot drink for consumption off the premises after 00:00.

2. To GRANT permission to:

Add the conditions proposed by the applicant to from part of the operating schedule:

1. Delivery drivers 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 the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.

2. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

3. 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.

3. To AMEND condition 17 to read:

17. Home delivery service of any kind from the premises shall only take place:

Monday to Thursday 23.00 to 23.30
Fridays and Saturdays 23.00 to 00.00

4. All other conditions are to remain as existing.

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

**The Licensing Sub-Committee
26 October 2023**

3. URBAN DONER KEBAB, GROUND FLOOR, 127 PRAED STREET, W2 1RL

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 4
("The Committee")

Thursday 26 October 2023

Membership: Councillor Angela Piddock (Chair),
Councillor Iman Less
Councillor Melvyn Caplan

Others present: Guy Ladenburg (Counsel for the Applicant),
Sayed Hasson (The Applicant) – present online

Sally Fabbricatore (Environmental Health Service - EHS)
PC Tom Stewart (Metropolitan Police - MPS).

Richard Brown (Licensing Advice Project Citizens Advice
Westminster) on behalf of:

- 1) HPEA– Susie Burbridge.
- 2) PWMVS
- 3) SEBRA – John Zamit

Application for a New Premises Licence in respect of Urban Doner Kebab
Ground Floor 127 Praed Street London W2 1RL – 23/02223/LIPN

Full Decision

Premises:

Urban Donner Kebab,
Ground Floor, 127 Praed Street,
London
W2 1RL

Applicant

Shaz Food Limited

Ward

Hyde Park

Summary of Application

This is an application for a new premises licence under the Licensing Act 2003 ("The Act"). This application seeks to permit the premises to trade as a fast food Premises.

The Premises has traded under TENs.

Operated under TENs and further submissions have been provided in the additional material.

Cumulative Impact Zone.

None

Special Consideration Zone:

None

There is a resident count of 68

Application

To Permit:

Late Night Refreshment

Sunday to Thursday 23.00 to 02.00

Fridays and Saturdays 23.00 to 03.00

Opening Times

Sunday to Thursday 10.00 to 02.00

Fridays and Saturdays 10.00 to 03.00

Representations Received

- PC Tom Stewart – Metropolitan Police Service
- Sally Fabbricatore – Environmental Health Services (EHS)
- Elizabeth Virgo – Paddington Waterways and Maida Vale Society
- John Zamit – South East Bayswater Residents Association
- Susan Burbridge and Richard Cutts - Hyde Park Association
- Ms Voronova - Resident

Issues raised by Objectors

The Police have concerns in regard to the potential crime and anti-social behaviour that may be caused as a result of the provision of late night refreshment, particularly in regard to deliveries from the premises.

The provision of and proposed hours for Late Night Refreshment may cause an increase in Public Nuisance in the area and may impact on Public Safety.

The non-standard timings may cause an increase in Public Nuisance in the area.

These hours are well beyond core hours and stretch well into the night.

The application does not specify whether delivery of hot food after 11pm is sought, although there is but a single condition which refers to delivery drivers.

Nuisance, litter, noise, waking up residents when making deliveries etc will be detrimental to the area.

We cannot see any sale of takeaway food by delivery service being able to run without problems as premises are a busy thoroughfare.

Policy Considerations

Policy HRS 1 states:

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

C. For the purpose of Clause B above, the Core Hours for this application as defined within this policy is:

Fast Food: Monday to Thursday: 10am to 11.30pm. Friday and Saturday: 10am to Midnight. Sunday: Midday to 10.30pm.

Sundays immediately prior to a bank holiday: Midday to Midnight

Policy FFP1(A) states:

A. Applications outside the West End Cumulative Zones will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.
2. The hours for licensable activities are within the council's Core Hours Policy HRS1.
3. The operation of any delivery services for alcohol and/or late-night refreshment meeting the council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.
4. The applicant has taken account of the Special Consideration Zones Policy SCZ1 if the premises are located within a designated zone.
5. The application and operation of the venue meet the definition of a fast food premises in Clause D.

D. For the purposes of this policy a Fast Food Premises is defined as:

1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption.
2. Food and drink are: a. Available on the premises for self-selection. b. Prepared on the premises. c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers.

3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption.
4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

SUBMISSIONS AND REASONS

The Presenting Officer, Jessica Donovan, Senior Licensing Officer, introduced the application to the Committee.

Mr Ladenburg informed the Committee that the application is reduced by 1 hour and went on to explain that the Applicant's Director is Mr Hassan Syed who was a resident in the area and took over operation of the Premises in 2013. The Applicant understands the issues in the area but does not foresee a problem with customers eating on the premises. He has used 3 TEN's.

The Premises traded under the TENs did not attract complaints. However, there is an accepted breach of two conditions at Mr Hassan's other operation at Chicken Cottage, 135 Praed Street.

Mr Ladenburg directed the Committee to the written submissions and said that there has not been any outreach to residents, but this was due to a change in solicitors and movement in the parent company. The Applicant apologised.

Mr Ladenburg said that there will be third party deliveries from UberEats and Deliveroo as Mr Syed Hassan, the operator, has been unable to find drivers of his own. Mr Ladenburg said that the application suggested numerous conditions including a condition on a patrol from a member of the premises at 9pm, which Mr Ladenburg said would now start later at 11pm.

Counsel advised the Committee that during the Coronavirus pandemic, the demand for deliveries increased significantly. Mr Ladenburg said he understood that there could be a public nuisance increase from third party deliveries but that the patrolling offered by the Applicant was a very visible and effective way to reduce this occurring. The Committee asked why the patrolling had been moved to 11pm from 9pm. Mr Ladenburg said that this was a better time in terms of potential nuisance.

The Committee also queried where delivery drivers would wait. Mr Ladenburg said that the seating inside allows sufficient space for delivery drivers to wait. When asked where drivers would be able to wait if the premises had all seats in use and people waiting for food inside, Mr Ladenburg said they would then in this instance wait outside. From 23.00 staff would also be patrolling this area to make sure drivers were being quiet. The Applicant felt that takeaways and deliveries could be conducted at the Premises without issue.

Mr Syed Hassan, who was online, addressed the Committee and said that there was a Subway and a Kentucky Fried Chicken operating on the same street operating late licences. Mr Hassan said that drivers are already on the street for these two venues. Mr Hassan said that there are AirBNB's operating in the area showing how it was not entirely residential and the dwellings were not continuously occupied. Mr Hassan

said that the economic situation was very difficult, and an increase in operating hours would enable him to generate more revenue.

Mr Hassan stated to the Committee that he is not aware of delivery vehicles blocking or causing an obstruction on the public highway.

Ms Sally Fabbricatore from Environmental Health informed the Committee that the hours were well beyond the core hours policy. Ms Fabbricatore said a premises where patrons ate in comparison to a premises where deliveries were undertaken were very different. Ms Fabbricatore said that noise from vehicles when doing deliveries was not something the Committee was able to control. Ms Fabbricatore stated a limit on total premises capacity may be of use to Members if they were minded to grant the licence.

PC Tom Stewart from the Metropolitan Police addressed the Sub-Committee and said that Praed Street is very busy and close to transport links. PC Stewart reinforced that delivery drivers do generate noise and third-party drivers are not controlled by the premises directly. PC Stewart said that Praed Street does have comparatively high levels of crime within the area.

The Committee asked PC Stewart what effectiveness he thought that the patrolling would have. PC Stewart said he was not of the opinion that this would have a large effect, especially with regards to engaging with the delivery drivers due to them being employed by a third party.

Mr Richard Brown, representing local resident associations, confirmed to the Committee that this Premises had operated until 11pm with hot food and drink. Other venues on the street had received many complaints from local residents on noise and said this venue could easily increase this. The residents feel that the issue with delivery drivers was not when they were due to collect food, but when the drivers congregate outside a premises waiting for an order. Mr Brown said his clients would accept core hours for those eating in.

A representative from the Hyde Park Estate Association addressed the Committee saying that Praed Street was very narrow, and there was not much space for people to stand and wait for deliveries. They also said that the noise from general conversation is enough to disturb local residents and complaints to these companies had been made but to no avail. Members heard how Praed Street was a two-way street and the congregation of bikes had stopped a bus being able to move freely on the street, showing how narrow the street was. However HPEA said there always needed to be a balance struck between residents and businesses, and the call for bicycles to be used rather than motor vehicles.

A representative from the South-East Bayswater Resident Association wanted the Application refused.

Mr Brown said that the policy of Westminster City Council favours directly employed delivery drivers for a reason, and that reason was that the premises has direct control over them. Mr Brown said this would not be the case under this operator as Mr Hassan had said he had not been able to recruit drivers of his own.

PC Tom Stewart summing up stating that conditions can be placed on the licence to help mitigate the concerns but welcomed the call for core hours.

Ms Sally Fabbricatore advised that the eat-in aspect, take aways on foot and take aways using delivery drivers were three distinct aspects of the licence and should be considered individually by the Committee.

Mr Ladenburg addressed the Committee and said that the congregation of drivers will occur very infrequently as there is an indoor area for them to reside in while they wait.

Mr Ladenburg said that only low-level noise or litter would be expected at this venue and a patrol by a member of staff would be able to mitigate, this showed that there was no need for door staff.

DECISION

The Committee has determined an application for a grant of a New Premises Licence under the Licensing Act 2003.

The Committee noted the existing nuisance caused by delivery drivers in the area and the Relevant Authorities contention that a patrolling member of staff would place themselves at risk and would not be effective.

The Committee were mindful of the fact that Mr Hassan had previously breached the conditions on an existing Westminster Premises Licence.

The Committee wanted to strike a balance between supporting businesses and protecting residents in the area. The Committee considered Westminster's Licensing Policy including the terms of Policy DEL1, HRS1 and FFP1(A). The Committee also had regard to the fact that there is limited control of the behaviour of 3rd party delivery operators, which causes residents concern.

Hyde Park Estate Association confirmed that Core Hours with appropriate and proportionate conditions would strike the right balance and the Committee were persuaded by this, having regard to the adverse effect the operation is likely to have on Licensing Objectives in the area and in particular after core hours.

Having carefully considered the committee papers, the additional papers and the submissions made by all of the parties orally, **the Committee has decided**, after taking into account all of the individual circumstances of this particular case and the promotion of the four licensing objectives: -

1. To GRANT permission for:

Late Night Refreshment

Monday to Thursday 23.00 to 23.30

Fridays and Saturdays 23.00 to 00.00

Opening Times

Monday to Thursday 10.00 to 23.30

Fridays and Saturdays 10.00 to 00.00
Sundays 11:00 to 22.30

2. Relevant Mandatory Conditions to apply.

3. Conditions proposed by the applicant to form part of the operating schedule

1. Staff shall be trained on the importance of the Licensing objectives.
2. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
3. The external door shall be kept closed after 23:00 hours, except for the immediate access and egress of persons.
4. After 23:00 hours, the number of persons permitted in the premises at any one time (excluding staff) shall not exceed 30 persons.
5. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
6. 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.
7. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
8. 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.
9. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
10. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
11. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

12. 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.

13. 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 preceding 31 day period.

14. 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.

15. 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, which 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
- (g) any visit by a relevant authority or emergency service.

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

17. Delivery drivers 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 the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.

18. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

19. 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.
This is the Full Decision of the Licensing Sub-Committee which takes effect forthwith.

**The Licensing Sub-Committee
26 October 2023**

The Meeting ended at 1.30 pm