

Remote meeting

Minutes of a meeting of the Licensing & Gambling Acts Casework Sub- Committee on Monday 14 June 2021

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Committee members present:

Councillor Cook (Chair)

Councillor Rehman

Councillor Thomas

Officers present for all or part of the meeting:

Daniel Smith, Lawyer

Richard Masters, Licensing Compliance Officer

Emma Thompson, Licensing Compliance Officer

1. Election of Chair for the hearings

Cllr Cook was elected as Chair.

2. KP Wholesale Drinks Ltd, Peterley Road OX4 2TZ: application for a new premises licence

The decision notice for this hearing is attached.

3. Lidl, Templars Square shopping park: application for a new premises licence

The decision notice for this hearing is attached.

4. Heat African Bar, 189 Cowley Road OX4 1UT: application to vary a premises licence

The decision notice for this hearing is attached.

The meeting started at 6.00 pm and ended at 9.00 pm

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Licensing Act 2003

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Licensing and Gambling Acts Casework Sub-Committee

Notification of determination

Hearing under Section 17 and 18 of the Licensing Act 2003, and the Licensing Act 2003 (Hearings) Regulations 2005 in respect of an application made to Oxford City Council for a Premises Licence.

Date of hearing:	14th June 2021
Place:	Remote hearing via 'Zoom'
Case No.	21/00936/PREM
Applicant	KP Wholesale Drinks Ltd T/A 24/7 Alcohol Delivery
Premises:	KP Wholesale Drinks Ltd T/A 24/7 Alcohol Delivery
Premises address:	Unit A, Taurus Peterley Road, Oxford, OX4 2TZ
Licensing Sub-Committee Councillors:	Cllr Colin Cook (Chair), Cllr Ajaz Rehman, Cllr Imogen Thomas
Legal Advisor:	Daniel Smith
Licensing Officer:	Emma Thompson
Clerk:	Richard Masters

The Sub-Committee heard representations from the following:

Licensing Authority: Emma Thompson (Senior Licensing Compliance Officer)

Emma Thompson presented the Licensing Authority's report, stating that the application had attracted a representation from Thames Valley Police (TVP) which highlighted concerns in relation to how the application may fail to promote the licensing objectives of the prevention of crime and disorder, public safety and protection of children from.

Applicant: Hiren Patel (Operations Manager)

Hiren Patel stated that he was operating a similar service in London and other areas. He

disagreed with the comments from TVP that crimes only happen in the night time. He claimed that they can happen at any time.

They will take the necessary precautions moving forward and the current pandemic encourages people not to go out so it is preferable to be able to deliver alcohol to home addresses.

He reiterated that they have similar operations in Manchester and London and have no issues other than one occasion in Manchester, which was allegedly no fault of their own.

He said that their aim is to protect the customer and their employees.

Mr Patel said that they would not deliver alcohol to public areas, but only to residential addresses.

TVP had requested that the sale of alcohol should cease at 23:00 but Mr Patel was seeking a later hour. He explained that if the licence was granted and that they did experience issues, that they would cancel the operation. However, he stated it was too early to say what issues would be faced as they are not currently operating and it is speculation.

He remarked that the business had been operating elsewhere for the last 1 ½ years without incident except for a robbery in Manchester which was out of their control.

He said the business would help the community, as by drinking at home, it will stop the nuisance outside.

He said that they check identification of customers and register with Deliveroo and other similar companies, and ensure it is the correct person accepting the delivery and that they keep records on their system.

He asked for permission to operate and be issued with a licence and to see how it goes.

Cllr Cook asked the applicant for clarity on the hours sought for licensable activity and he stated they were seeking a terminal hour of 04:00.

Cllr Cook also asked if the applicant was willing to accept the conditions requested by TVP, to which he replied he was.

Cllr Rehman asked how orders were placed and Mr Patel stated they operated through Deliveroo and Uber Eats like other restaurants. His own drivers would deliver within a 3 mile radius of Oxford.

Cllr Rehman then asked how long they planned on keeping ID records of customers. He replied up to 6 months and that they record the ID at same time as the company to which the order was placed. He said that when the delivery is to be completed, they check the reference with Uber etc. to confirm it is the correct person. Any issues they will not complete the delivery.

Cllr Thomas queried what the procedure was if a customer was refused due to intoxication or not having ID. Mr Patel answered that they check the phone number and call the customer to ascertain if they are intoxicated or not. The driver will go to the door and request the customer shows ID. Any issues they cancel the order with the ordering company. They highlight on their system and they block the customer so as to refuse future bookings.

Sgt Bouse asked for clarification regarding the involvement of Uber.

Mr Patel confirmed they employ their own drivers and vehicles. This is to ensure that they are providing the alcohol to the correct person. Drivers check the ID's.

Cllr Cook asked for confirmation that Uber etc. were used for booking facilities and the order was then fulfilled by Mr Patel's company. Mr Patel confirmed this was the case.

Cllr Rehman requested clarification on staff training. Mr Patel said that they undertake a knowledge test, they are trained on what forms of ID to accept. Each driver has a training manual. The drivers then have a temporary trial period of 3 months to ensure they are suitable. Training is ongoing. They currently employ 20 drivers within the company over the existing sites. They also undertake DVLA checks on the drivers every 3 months to ensure they hold the relevant licence and that it has not expired or been revoked. They use the DVLA check code facility on the DVLA website to run these checks.

Responsible Authorities: Sgt Neil Bouse (Thames Valley Police)

Sgt Bouse indicated that their representation was based on a number of points. Their first concern was the issues faced by the drivers when challenging a customer for ID or if the customer is intoxicated. This dynamic puts the driver in a position of weakness and potential harm.

The hours sought in the application, 04:00 cessation time, posed an issue for TVP in that the current data they hold shows that the longer the alcohol is served, the larger the increase in violent crime and disorder.

In the night time economy, nearly of 50% of crime occurs at the weekend, 14%-15% occur after 01:00 hours.

Over the last year, there has been an increase in noise nuisance and anti-social behavior (ASB), predominantly in relation to student parties. Some Licensed venues close at 01:00 to 02:00, and if this business has a service until 04:00, it could lead to this nuisance for the community, and demand for Police services, to increase.

Sgt Bouse said that the initial application was somewhat misleading as the application alluded to the fact that there was a proven track record of operating responsibly. After checks with Police colleagues in Manchester, there had been occasion when on inspecting the premises they had found that the Designated Premises Supervisor (DPS) had not been present.

Cllr Thomas asked if there was any statistical evidence in relation to incidents with drivers. Sgt Bouse replied they had no statistical evidence. He stated that in normal licensed premises such as bars, staff have difficulty challenging customers when they are intoxicated but in that environment they would have support staff and possibly security. Driver's delivering the alcohol will have no support and will potentially be put at risk from intoxicated persons.

Mr Patel confirmed they have a parallel company and that may have been where the confusion lay regarding their previous trading history. He said the information provided in the application was not incorrect but related to another trading name.

He said they had been successfully running for 1 ½ years and had no problems in London and that the Manchester business only had 1 issue.

He reiterated that crime can happen anywhere. He said his staff are trained and if the drivers face any potential issue when delivery the alcohol they are advised to leave the drinks and vacate the area.

Sgt Bouse clarified the issue in Manchester that he mentioned was related to there being no DPS when visited for an inspection, rather than an incident involving drivers being targeted for carrying alcohol.

Mr Patel stated that they follow all the rules and guidelines, they are fully insured, and have CCTV.

He asked to be given a chance and to see how it goes. If there are any problems, the licence

can be reviewed.

Sgt Bouse summed up by saying that alcohol delivery so late could possibly lead to noise nuisance and will be putting drivers in harm's way.

Emma Thompson confirmed that there are currently four other Premises Licences in force for similar alcohol delivery services within Oxford and all had a cessation time of 23:00 or earlier and a further two licences that had been surrendered had similar timings.

Sgt Bouse confirmed that 23:00 was the time that TVP proposed for the end of sale of alcohol.

Mr Patel conceded that he was willing to accept the terminal time requested by TVP.

Decision and Reasons of the Sub-Committee

1. The Sub-Committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance and the Council's Statement of Licensing Policy, in particular policy PP11 (Supply of alcohol for the consumption off the premises) and LH8 (Hours for 'Off-Sales' of Alcohol) .
2. The Sub-Committee gave weight to the concerns that TVP had in regards to the driver's personal safety when challenging customers for identification or if the customer was intoxicated and the increased problems of crime & disorder and public nuisance after 01.00.
3. The Sub-Committee noted the licensable hours for sale of alcohol for similar licensed alcohol delivery services in Oxford but understood that each case is determined on its own merits.
4. The Sub-Committee was satisfied that the conditions requested by TVP, and agreed with the applicant, would ensure the licensing objectives would be upheld.
5. The Sub-Committee determined that in order to promote the licensing objectives of preventing crime and disorder and preventing public nuisance it was appropriate to restrict the licence hours to 20:00 until 23:00 for the sale of alcohol, and to include all of the conditions proposed by Thames Valley Police in their representation, detailed below:

TVP 1

Under premises 'off sales' function providing a remote ordering and home delivery ordering service, alcohol shall only be delivered to a residential or business address.

The receiver of the alcohol must be able to prove to the person delivering the alcohol they are a resident or employee at the premises and must be inside the building or at the doorway of the business, house or flat.

(i.e. Not standing in the entrance or the grounds/garden etc.) Alcohol shall not be delivered to a person who is in a public place i.e. in a street, a park etc.

This requirement will be clearly displayed in any advertising and prior to the transaction being authorised at the point of sale. It will be confirmed in the receipt afterward for the customer's awareness

TVP 2

All persons delivering alcohol must be aged 18 years or over

TVP 3

An employment register will be kept of all those staff that deliver alcohol. This register will document the full name, date of birth, and home address. This register will be made readily available to Thames Valley Police upon request (in line with and subject to relevant data protection legislation) to aid in any investigations related to a delivery person whilst in execution of tier job role at the premises.

TVP 4

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service orders, delivery staff shall be readily identifiable as being a persons delivering on behalf of the premises (ie high visibility premises/courier branded vest etc) and to remove any helmet, mask or other head gear etc that might obscure their face when at the front door.

TVP 5

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service delivery will be made by a member of staff employed directly by the premises and not by a third party (ie A taxi/private hire Driver, delivery service etc etc)

TVP 6

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service for alcohol, all sales of alcohol will only be made by way of credit or debit card transaction (including that by way of third party proxy such as 'Paypal' etc)- no cash upon delivery.

TVP 7

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service for alcohol the premises will adopt a policy whereby any person attempting to buy or take delivery of alcohol who appears to be under 25 will be asked for photographic identification to prove their age. The only identification that will be accepted are passports, UK driving licences with a photograph or Photographic Card bearing the 'PASS' hologram the details of which correspond to the details of the customer that made the order.

Failure to provide the requested identification will result in non-delivery of the alcohol and a refund in respect of that part of the order which relates to the alcohol only.

This requirement will be clearly displayed in all advertising related to this service, and will be clearly stated to the customer prior to the transaction being authorised at the point of sale. It will be reiterated in the receipt given with the delivery afterward for the customer's awareness.

TVP 8

In the event the premises under its 'off sales' function provides a remote ordering and/or home delivery ordering service orders for alcohol The premises will maintain a daily register. The register will comprise of a bound printed paginated note book to prevent fraudulent amendment. It will document:

- The person in charge of the premises for that day*
- The person authorising the sale of alcohol for that day if they are not the same as the above.*

It will also record every delivery made and will include:

- The date and time of each delivery*
- The customer name and address to which the delivery was made*
- Any request made for proof of age/ID by the delivery person*
- What was provided*
- Any refusals and the reason for that refusal*
- Any further action or outcome from this (ie refund given subsequently / this address/person now barred etc)*

The register will be maintained for a minimum rolling period of 24 months and will be readily made available to Thames Valley Police, or the Licensing Authority upon request.

TVP 9

All staff/third party agency involved in the delivering of alcohol orders shall receive full training in:

- challenge 25 policy
- approved forms of identification,
- fake and fraudulent proof of age/ID
- the company's policy of non-delivery/refusals and refund
- conflict resolution

A record of all training will be kept, which staff/third party agency will sign and date each time they receive this training to confirm they have had, fully understand its content and will adhere to the training.

Copies of the content of this training and the staff/third party agency training confirmation records will be made readily available to the Licensing Authority or Thames Valley Police upon request.

Where subsequent issues related to the training is brought to the premises licence holder's attention by either the Licensing Authority and/or responsible authorities named in the Licensing Act, the premises licence holder will make amendments as directed by that authority

TVP 10

In the event the premises under its 'off sales' function provides a remote ordering/home delivery ordering service for alcohol When an order is taken for delivery to a customer, upon delivery all customers shall sign a delivery note which will contain:

- A list of the individual items delivered;
- The delivery address;
- The method of payment;
- The name of the person ordering and receiving the alcohol;
- The date and time of delivery;
- If proof of age was asked for, confirmation of the type of proof of age document presented and accepted;
- The name or designated employee ID number of the employee that made the delivery.

TVP 11

In the event the premises under its 'off sales' function provides a remote ordering/ home delivery ordering service for alcohol all vehicles used in the delivery of alcohol will have a means of tracking (GPS etc) by the premises and a means of contacting either the premises or the emergency services (i.e. mobile phone). These will be in full working order at all times whilst the vehicle is being utilized for delivery, and delivery staff will understand how to operate them as required for the job role.

TVP 12

In the event the premises under its 'off sales' function provides a remote ordering/ home delivery ordering service for alcohol all staff involved in the delivery of alcohol to the public will have taken an accredited course in dispute resolution training.

TVP 14

In the event the premises under its 'off sales' function provides a home delivery and or remote ordering service, customers placing a remote order including alcohol shall be required to confirm that they are over the age of 18 at the time of making payment.

TVP 15

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service orders of or orders including alcohol will be delivered no later than 30 minutes after the terminal hour for the sale of alcohol

TVP 17

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service of alcohol Where a customer ordering alcohol for delivery is found to be ordering irresponsibly (i.e. is underage, excessively intoxicated, abusive, violent etc) the premises shall operate a refusals registers when future orders by that customer are declined.

TVP 18

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service of alcohol any member of staff or agent acting on behalf of the premises in delivering alcohol

to a customer will have and operate whilst completing the delivery body worn video (BWV) which records both video (images) and audio footage.

The member of staff or agent acting on behalf of the premises in delivering alcohol to a customer will :

- understand how to properly operate the BWV,*
- they will ensure it is properly operational before leaving the premises.*
- In the event of disorder, verbal abuse, threat of or actual physical violence, antisocial behaviour or any other behaviour that the member of staff/agent feels threatened or in fear they will activate the camera.*

The premises will ensure that footage is downloaded to a central hard drive and retained for a rolling period of 31 days.

The premises will have a member of staff working at all times whilst the licence is in operation that is able to operate the system and in particular is able to provide copies of any footage requested by The Police.

The premises will have a means of copying any footage to another medium as evidence if requested by the Police

The premises will have a system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed

TVP 19

In the event the premises under its 'off sales' function provides a home delivery /remote ordering service of alcohol any vehicle used by a member of staff or agent acting on behalf of the premises in delivering alcohol to a customer will have and operate whilst completing the delivery a dash camera or other such video recording

The member of staff or agent acting on behalf of the premises in delivering alcohol to a customer will :

- understand how to properly operate the dash camera,*
- they will ensure it is properly operational before leaving the premises.*
- It will be in operation whilst the vehicle is out on delivery*

The premises will ensure that footage is downloaded to a central hard drive and retained for a rolling period of 31 days.

The premises will have a member of staff working at all times whilst the licence is in operation that is able to operate the system and in particular is able to provide copies of any footage requested by The Police.

The premises will have a means of copying any footage to another medium as evidence if requested by the Police

The premises will have a system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed.

6. The application is **GRANTED** subject to the conditions and timings set out above.

Signed: Councillor Colin Cook

Chair of Licensing Sub-committee

Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.

Licensing Act 2003



Licensing and Gambling Acts Casework Sub-Committee

Notification of determination

Hearing under Section 17 and 18 of the Licensing Act 2003, and the Licensing Act 2003 (Hearings) Regulations 2005 in respect of an application made to Oxford City Council for a Premises Licence.

Date of hearing:	14th June 2021
Place:	Remote hearing via 'Zoom'
Case No.	21/00935/PREM
Applicant	Lidl Great Britain Limited
Premises:	Lidl
Premises address:	Unit 5A, Templars Shopping Park, John Allen Way, Oxford, OX4 3JP
Licensing Sub-Committee Councillors:	Cllr Colin Cook (Chair), Cllr Ajaz Rehman, Cllr Imogen Thomas
Legal Advisor:	Daniel Smith
Licensing Officer:	Emma Thompson
Clerk:	Richard Masters

The Sub-Committee heard representations from the following:

Licensing Authority: Emma Thompson (Senior Licensing Compliance Officer)

Emma Thompson presented the Licensing Authority's report, stating that the application had attracted three representations from Interested parties, all of which highlighted concerns in relation to how the application may fail to promote the licensing objectives of the prevention of crime and disorder and public nuisance and public safety. Mrs Thompson also confirmed that Thames Valley Police were satisfied with the Applicant's operating schedule and measures proposed to uphold the licensing objectives and as such had not submitted a representation.

Daniel Smith clarified that the Interested parties were all residents of the same address in Garsington, which is outside of the City boundary.

Applicant: Amanda Pillinger (Pillinger & Associates Solicitors on behalf of the Applicant)

Ms Pillinger reiterated that the application did not receive any objections from any of the Responsible Authorities and the Interested parties lived approximately 2 ½ miles from the premises.

Ms Pillinger referred to the location plan in the report and stated that no residents in the vicinity of the premises had lodged an objection. She referenced section 2.10.1 of Oxford City Council's Statement of Licensing Policy (SLP) which states that *'licensing is not about mechanisms for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual club or business holding the licence, certificate or permission concerned (subject to Policy LH6)'*.

Ms Pillinger explained that Lidl had 860 stores in UK and that they were an experienced operator, with stores in number of different areas including city centres, retail parks etc. Some located in areas with a high level of street drinking etc.

She said that Lidl understands the importance of thorough staff training and referred to the additional material that was provided which includes the staff training on under age sales, proxy sales, street drinkers, conflict, refusal of sale to intoxicated persons etc.

Staff cannot operate at a check out until they have undertaken the necessary training. They will be monitored by managers initially to ensure they are aware of age restricted products. They have an Age Restricted Sales Register signed by staff. Training is given online and by the DPS and Area Manager, who will be aware of store specific issues.

The Age Restricted Policy is displayed in the staff area as a reminder to all staff. The customers are reminded of age restricted products by way of signage displayed around the store.

Ms Pillinger stated that they have a refusal procedure and operate a Challenge 25 policy, where the staff on checkout rings a bell to call a shift manager if a person appears underage. They challenge the customer if necessary which acts as a strong deterrent. Lidl have a zero tolerance approach.

Lidl also employ an external company to conduct test purchases, which return with positive results.

Ms Pillinger stated that Lidl is a supermarket and the alcohol is located at the back of the store so the customer has to walk through the store which acts as a deterrent to shoplifters due to the CCTV etc.

Staff are trained to patrol the area. If a customer appears to be under 25, the staff are trained to approach and remind the customer they operate a Challenge 25 policy so will be asked for ID when purchasing, which can reduce conflict at the checkout.

The procedures and policies are uniform throughout the company and are the minimum requirements in all Lidl stores.

Lidl works closely with the Police and Ms Pillinger referred to an example with a branch at Shepherds Bush where they liaised with the Police in regards to licensable hours and after demonstrating that they had operated well they applied to vary the license to extend the hours in agreement with the Police.

Lidl work in the community and are part of the Retail and Alcohol Standards Group, Drink

Aware, and fund the Community Alcohol Partnerships. This is an initiative where local stakeholders address any concerns at a local level, and then go back and monitor and evaluate what actions were successful. They also support local charities, local schools, and the NSPCC.

Ms Pilliger summed up by stating there were no objections from the Responsible Authorities and the 3 objectors lived in the same residence approximately 2 ½ miles away. Lidl are an experienced operator, with thorough training, policies and procedures. She said the Sub-Committee should be confident in granting a licence and if there are issues, anyone can apply for a review. She quoted section 2.10.1 of the SLP, as well as section 5.5 which reference to hours for off sales of alcohol.

Daniel Smith clarified that although the Interested parties were not in attendance, their written representations would be taken into account.

Cllr Cook confirmed that the members had read the full report and agenda for the hearing.

Decision and Reasons of the Sub-Committee

1. The Sub-Committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance and the Council's Statement of Licensing Policy, in particular paragraph 2.10.1 (non-licensing issues), section 5.5 (policy LH8 Hours for off sales of alcohol) and Policy PP11 (Supply of alcohol ('Off-Sales')).
2. The Sub-Committee noted the concerns raised by the Interested parties but believed that the issues were not store specific and that this premises would not generate additional anti-social behaviour.
3. The Sub-Committee was satisfied with the robust staff training, policies and procedures in place and that the applicant is an experienced company.
4. The Sub-Committee noted Thames Valley Police were satisfied with the Applicant's operating schedule contained within the application which detailed the measures the Applicant would implement to uphold the licensing objectives and thus did not submit a representation.
5. The application is **GRANTED** as applied for.

Signed: Councillor Colin Cook

Chair of Licensing Sub-committee

Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.

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Licensing Act 2003



Licensing and Gambling Acts Casework Sub-Committee

Notification of determination

Hearing under Sections 34 and 35 of the Act, and the Licensing Act 2003 (Hearings) Regulations 2005 In respect of an application made to Oxford City Council for variation of a Premises Licence

Date of hearing:	14th June 2021
Place:	Remote hearing via 'Zoom'
Case No.	21/01141/PREM
Applicant	HEAT African Bar And Restaurant Ltd
Premises:	HEAT African Restaurant
Premises address:	189 Cowley Road, Oxford, OX4 1UT
Licensing Sub-Committee Councillors:	Cllr Colin Cook (Chair), Cllr Ajaz Rehman, Cllr Imogen Thomas
Legal Advisor:	Daniel Smith
Licensing Officer:	Emma Thompson
Clerk:	Richard Masters

The Sub-Committee heard representations from the following:

Licensing Authority: Emma Thompson (Senior Licensing Compliance Officer)

Emma Thompson presented the Licensing Authority's report, stating that the application had attracted representations from Thames Valley Police (TVP) and Environmental Health, as well as eight objections from Interested Parties, all of which highlighted concerns in relation to how the application may fail to promote the licensing objectives of the prevention of crime and disorder and prevention of public nuisance.

Mrs Thompson also stated that in addition the Licensing Authority had received 20 representations in support of the application, including a petition signed by 25 members of the African Football Group.

Applicant: Charles Denny (Licensing Consultant – Innpacked Ltd on behalf of the Applicant)

Mr Denny reiterated that the name of the premises is Heat African Restaurant and it is a restaurant rather than a bar, as reflected by the current conditions attached to the existing premises licence which only allow the sale of alcohol to be ancillary to food. However Mr Denny did concede that the nature of the operation was “not exclusively a restaurant”.

Mr Denny stated that the current permitted hours for licensable activity were similar to the permitted hours for licensed premises prior to the introduction of the Licensing Act 2003, which was established to allow flexibility whilst also upholding the licensing objectives.

He claimed that the current licence contained more conditions than any other licence in the vicinity, including the O2 Academy.

He explained the hours sought, which would be crucial to the successful trading of the business and that the aim was to keep customers in the premises rather than have a large turnover of them and offered a last admission condition, as described in the application.

Mr Denny volunteered to amend the existing condition 28 attached to the licence, which currently states there will be no use of the rear yard after 22:00, to no use after 21:00, in response to the representations received by Interested Parties concerning noise nuisance. The rear yard would also be monitored by staff when it is occupied.

Mr Denny expressed doubt over a recent noise complaint as it was at a time when he believed the premises was not trading.

Heat is a unique restaurant that offers African cuisine, music and atmosphere meaning a total experience for a night out and customers will look at it as a destination venue.

It has a capacity of 100, with around 70 covers and without the increase in hours the business may fail. Aim is to encourage people to remain at the premises for 2 to 3 hours to enjoy the facilities including African food and music with alcohol ancillary to both.

Other premises in the vicinity have longer hours than Heat Restaurant and Mr Denny listed some examples.

Mr Denny stated that the business relies heavily on Fridays and Saturdays trade so needs to operate to their full potential at that time to offer customers what they want but also to be a successful business.

Mr Denny referred to the number of conditions on the existing licence and that they were, in his belief, adequate to cover the later hours sought.

Due to the pandemic, the business has only been able to operate for six months since the initial grant of the licence, resulting in the business making a loss.

They have conformed with all Covid-19 related restrictions and Mr Halilu has tried to build a reputation as a African restaurant and entertainment venue. Mr Halilu is both the Designated Premises Supervisor (DPS) and managing director of the company and is a businessman passionate about meeting his aims whilst at the same time addressing the needs of both the Responsible Authorities and the local community.

In conclusion, Mr Denny reiterated that the rear yard will be closed at 21:00, 7 days a week and monitored when used to prevent noise nuisance. They already have a condition which does not permit music to be played outside and due to the thickness of the walls, as the premises was

previously a bank, this would prevent noise inside from escaping.

He also said that there will be a latest admission time as stated in the application and that Mr Halilu is 100% committed to the successful running of the premises and to make it a welcome addition to the local nightlife.

Their aim is to showcase African cuisine and culture and all residents of Oxford are welcome, which is indicated by the number of representations in support of the application.

Cllr Cook queried the capacity of 100 but only 70 covers. Mr Denny explained that the additional 30 people could be in the rear yard, awaiting a table and natural movement to the toilet etc. 70 is the reasonable capacity for diners and unlikely to reach the full capacity of 100.

Cllr Cook also asked for the number of services per night at the venue and Mr Denny proposed that the likely turnover is once per night as they would be encouraging people to stay at their tables and be served by waiter service throughout their stay.

Cllr Cook then asked of the six months they have been open, how many had they been operating 'normally'. Mr Denny responded by saying none due to pandemic related restrictions.

Cllr Rehman asked if at 22:00 there are no more admissions, would this mean there would be no more than 70 people in the premises as a maximum? Mr Denny agreed stating they would not allow any more admission after that time.

Cllr Rehman asked how the back yard was used currently. Mr Denny said it had become the outside area due to the pandemic where people could eat and socialize but with no music. Mr Denny conceded that it did get quite noisy at times, resulting in complaints but the proposed alterations would put an end to this.

Mr Denny confirmed that the 70 covers were inside the restaurant.

Cllr Thomas enquired about the use of the rear yard after 21:00 by staff clearing up and taking bins out that could potentially create a noise nuisance.

Mr Denny accepted that one representation referred to the noise of staff in the outside area and that they would comply with the relevant conditions already on the licence to ensure no nuisance was caused.

Daniel Smith stated that the current licence included 'recorded music' which was unusual for a restaurant and asked if the music volume is monitored. He also asked if background music would suffice for the premises or if recorded music was a part of the business plan.

Mr Denny said that people go out to eat on their night out and the premises were not an exclusively restaurant operation, but more one that provides the complete experience of music and food. He said it was common practice to increase the level of music as the night progresses so it would be at a level above background. The premises does have DJs at weekends.

Dave Acreman (Environmental Health Officer) suggested a 'cut off' device would be advisable if the volume was to be louder than background levels given the proximity of neighbours living close to premises.

Mr Denny stated that the layout of the premises and the noise monitoring would prevent any sound breakout and that staff could leave the removal of waste from the restaurant, and the

clearing of the back yard waste, until the morning if preferable.

Mr Acreman agreed that leaving the removal of the waste until the morning would be preferable to removing it late at night.

Responsible Authorities: Sgt Neil Bouse, Thames Valley Police-(TVP)

Sgt Bouse stated that during initial renovations of the premises, it was advertised as a sports bar and karaoke bar and due to the pandemic they have been unable to operate at capacity. TVP need to check licence holders are responsible and are upholding the licensing objectives. Unfortunately, and through no fault of their own, they have not had anywhere near the number of people through doors they might have hoped for and Government restrictions have impacted the business. The business is untested on a licensing basis and the current restrictions have seen the activity in the city reduce as have the number of students. In the evidential bundle it states that nearly 50% of all offences relate to the night time economy on Friday and Saturdays, the busiest period for the Police is between 01:00 and 04:00. On the Cowley Road, the crime hotspot is between O2 Academy and Cowley Retreat. Heat restaurant is located in the middle of this area.

The Special Saturation Policy (SSP) was in place at the time of the original application. Even though it has lapsed due to the pandemic, Sgt Bouse stated that we needed to be mindful of the cumulative impact of having more people leave licensed premises at the same time, especially at the terminal hour sought, which is peak demand time for the services of both the Police, and the NHS.

Interested Parties: Lydia Matthews (on behalf of the Divinity Road Area Residents Association -DRARA).

Ms Matthews stated their objection was on the grounds of public nuisance in relation to the cumulative impact due to the number of businesses on the Cowley Road.

She said that the number of late night venues in the vicinity and the cumulative impact on the residents is significant.

Ms Matthews said that if the premises was to stay open later it would increase the issues of public nuisance. She stated that there was sustained anti-social behavior (ASB) and noise nuisance from patrons from premises on the Cowley Road and she was concerned that adding another venue will act as a draw to traffic on Cowley Road and will have an impact on the residents of Divinity Road and the local community.

Niyi Anubi

Mr Anubi said that he had lived in Oxford for 35 years and never seen anything like this restaurant trading in Oxford and he welcomed its addition with open arms. He said it is key to his existence and enjoyed it's food and experience and had never seen any issues at the premises.

He said he could not see any empirical evidence as to what has been claimed, and argued that the impact of one extra restaurant on the cumulative impact would be marginal. He said the knock on effect was not credible and evidence would need to be seen.

He stated it was unfair that other premises on Cowley Road have longer hours.

He queried the Divinity Road objection due to the distance from the premises and thought that there may be other motives as some complaints were untrue.

He stated that the music is part of the ambience and that African music is very popular. The

premises is different and unique, and to deny the opportunity for longer hours would be a big shame.

He agreed that conditions should be on the licence and adhered to which he believed the licence holder would do.

Samantha Cooke

Ms Cooke agreed with the points raised by Mr Anubi and referred to her written representation in support of the premises.

Responsible Authorities: Dave Acreman, Environmental Health, (EH)

Mr Acreman said he was heartened by the conditions offered by the Applicant, which would go a long way to mitigating the concerns of EH. He said he would like a lobby system at the front of the premises to help prevent noise escaping onto Cowley Road.

He also suggested a cut off device on the rear door which will cut off the music if the door is opened to control noise breakout, as music escaping out of the back door was the most pressing issue.

Emma Thompson confirmed she visited the premises on Friday night with Richard Masters (Senior Licensing Compliance Officer) and stated there is an electric door that opens at the front when people enter.

Daniel Smith asked if the thickness of the walls will assist with adequate noise attenuation.

Mr Acreman clarified that noise breakout is normally from weaknesses in the structure, namely doors, windows and vents and the issue was noise escaping out into the back yard.

Mr Acreman agreed that closing the back yard at 21:00 was a reasonable time to assist with the issue of noise from people outside and that he could assist with a condition in relation to noise limiters or levels if necessary.

Mr Denny concluded by saying that noise nuisance good management practice comes from working with residents and the Responsible Authorities rather than against them. He said it was reasonable to request a winding down period towards the closing time, as this encourages people to leave gradually. He also said that the cumulative effect of the additional hours would be negligible in agreement with Mr Anubi.

Mr Denny remarked that it was an exciting offer to have an African cuisine themed restaurant in Oxford and African music is popular for the 100 people in attendance. He did not expect to have noise issues in the future.

He recommended that the licence be granted to meet customer demand but also to make it economically viable and said that there was a responsible and passionate DPS in charge.

Sgt Bouse reiterated that it is an untested venue, due to the pandemic, and he had not seen the operation in full swing. Cumulative impact was expected at the riskier times requested and the premises is located in a crime hot spot area.

Mr Anubi said that the majority of people using the premises were already on Cowley Road, and it would not create a cumulative impact as the people were already circulating on Cowley Road and the premises provides a further option to the patrons already in the vicinity. He said

that the assertion that it will create problems is not credible.

Decision and Reasons of the Sub-Committee

1. The Sub-Committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance and the Council's Statement of Licensing Policy, in particular policies LH3 (Licensing hours), LH7 (Last admission times) GN18 (Cumulative Impact), PP1 (Pubs, Restaurants, Hotels, Guesthouses) and policies LA2-LA4 (General Prevention of Public Nuisance).
2. The Sub-Committee gave weight to the concerns of TVP in regard to the high levels of crime, disorder and nuisance in the area, particularly after 01.00hrs. The Licence had been granted in 2020 as an exception to the then East Oxford Special Saturation Policy (EOSSP) due to the apparently low impact of the intended operation as a restaurant. The decision at that time gave no expectation that hours of operation would be extended at a later date.
3. The premises had been unable to trade at full capacity due to the restrictions related to the pandemic, for this reason the Sub-Committee had no evidence before it as to the actual impact of the business when operating under normal circumstance. Whilst the EOSSP was not currently in effect the TVP evidence showed that the cumulative impact problems in the area remained high and the representations from the Interested parties indicated noise nuisance was a problem, particularly from use of the outside area.
4. The Sub-Committee also had concerns that although the premises is restricted by its licence to operation as a restaurant, it had many aspects that were not restaurant related and were more akin to a nightclub.
5. For these reasons the Sub-Committee found it appropriate to limit the variation applied for and to impose additional conditions, as follows, in order to promote the licensing objectives of preventing public nuisance and preventing crime and disorder:

hours for licensable activities:

Retail Sale of Alcohol (on sales only)

Friday and Saturday 12:00 to 00:00

Sunday to Thursday 12:00 to 23:00

Late Night Refreshment

Friday and Saturday 23:00 to 00:00

Recorded Music

Friday and Saturday 12:00 to 00:15

Sunday to Thursday 12:00 to 23:00

opening Hours:

Friday and Saturday 12:00 to 00:30

Sunday to Thursday 12:00 to 23:30

additional conditions:

- I. *The Premises Licence Holder shall ensure that there is no use of the rear yard (external area) by customers after 21:00 hours. When in use the rear yard will be monitored by staff. (nb. this condition replaces current condition 28 of the licence)*
 - II. *The Premises Licence Holder shall ensure that a circuit 'cut off' device is fitted and working which automatically switches off the sound system when the rear door is opened after 21.00. Such device to be approved by the Responsible Authority for environmental health.*
 - III. *There shall be no admittance or re-admittance of customers after 22:00hrs Sunday to Thursday and 22:30hrs Friday and Saturday.*
6. The application is **GRANTED** subject to the additional conditions and timings set out above.

Signed: Councillor Colin Cook

Chair of Licensing Sub-committee

Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.

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