

**Meeting** Licensing Committee

**Portfolio Area** Communities, Community Safety and Equalities

**Date** 20<sup>th</sup> December 2022

**APPLICATION FOR A VARIATION OF PREMISES LICENCE –CHICKAROS CHICKEN AND GRILL, 59 HIGH STREET, STEVENAGE, SG1 3AQ.**

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**1 PURPOSE**

- 1.1 To determine an application for the variation of a Premises Licence for Chickaros Chicken and Grill, 59 High Street, Stevenage. SG1 3AQ. Responsible Authorities, Hertfordshire Police and The Local Planning Authority have made representations against this application.

**2 RECOMMENDATIONS**

- 2.1 That the Committee reviews the evidence presented by the responsible authorities and applicant (and/or representatives) and determines what action should result in respect of the Variation of Premises Licence application.

**3 SUMMARY OF APPLICATION**

- 3.1 K Bala Ltd has applied for the variation of the premises licence for Chickaros Chicken and Grill, 59 High Street, Stevenage SG1 3AQ. The variation proposes extending the premises opening hours and the hours for the

provision of late night refreshment. **The premises is currently licensed to provide late night refreshment between the following hours:**

23.00hrs until midnight – Sunday to Wednesday

23.00hrs until 02.30hrs – Thursday to Saturday, with delivery only from 01.00hrs.

The opening hours of the premises are currently as follows:

11:30hrs until 00.30hrs – Sunday to Wednesday

11:30hrs until 01.30hrs – Thursday to Saturday.

**The variation application proposes to extend the hours of late night refreshment to the following:**

23.00hrs until 02:00hrs – Sunday to Wednesday.

23.00hrs until 03:30hrs – Thursday to Saturday. The proposed hours are for both delivery and take away.

**Proposals to extend the opening hours will be as follows:**

11.30hrs until 02.00hrs – Sunday to Wednesday

11.30hrs until 03.30hrs – Thursday to Saturday.

Further changes to amend the wording of condition 4 of Annex 2 licensing conditions are detailed below:

There shall be no consumption of food or drink on the premises after 00:00 hrs. The premises shall remain open for takeaways between 00:00 hrs and 02:00 hrs. Sunday – Wednesday, and 00:00 hrs and 03:30 hrs. Thursday – Saturday

**Instead of –**

There shall be no consumption of food or drink on the premises after 00:00hrs. The premises shall remain open for takeaway between 00:00 hrs and 01:00 hrs. Thursday – Saturday.

No additional conditions have been proposed by the applicant at the time of this application. This application was accepted as valid and duly made by the Council on 3rd November 2022. A copy of the application is attached at Appendix A.

## **4 BACKGROUND INFORMATION**

- 4.1 Chickaros Chicken and Grill is fast food premises which are licensed for the provision of late night refreshment and offer a dine-in, takeaway and delivery service. The premises are situated on the eastern side of the High Street, Stevenage and forms part of the Old Town Conservation Area. Although the premises are bounded by other commercial properties which include other fast food establishments, there are residential properties located opposite the premises above the Old Town Food Centre, (formerly Waitrose). There are also residential properties located above ground floor premises which run

along Middle Row, as well as premises at first floor level on roads adjacent to Church Lane. A location map is attached at Appendix B.

- 4.2 There are other premises providing late night refreshment within proximity to Chickaros Chicken and Grill, located in Baker Street and Middle Row which are not open beyond midnight. There are only two other food premises open beyond 02.00hrs, Old Town Fish Bar and Bingol Kebab & Pizza. These are located at opposite ends of the High Street.
- 4.3 The licensing team have received two complaints from the Police Licensing Officer informing them that the premises were found by Officers to be operating outside of the timings of which their licence allows. The first relates to the weekend beginning the 23<sup>rd</sup> July 2022 and the other relates to the weekend beginning 5<sup>th</sup> November 2022. There are no further complaints received which can be connected to the running of the premises.

## **5 RESPONSIBLE AUTHORITIES**

- 5.1 Representations have been made by three of the Responsible Authorities, the Police and the Local Authority Planning Department and Environmental Health.

PS Christopher Adshead of Hertfordshire Police has concerns relating to the licensing objectives Prevention of Crime and Disorder and the Prevention of Public Nuisance. To summarise, the Police have issued a written warning to the premises licence holder after Officers on at least two occasions found the premises to be operating beyond the hours authorised by their current premises licence. Despite Officers advising them of the breach of their premises licence, the premises continued to sell hot food to customers with no regard to that advice and as a result, inebriated customers are lingering around the store, causing noise and public nuisance.

James Chettleburgh, Development Manager for the Local Planning Authority, has concerns relating to the licensing objective prevention of public nuisance. To summarise, The Local Planning Authority in their representation refer to Policy FP7: Pollution of the Stevenage Borough Local Plan 2011-2031 (adopted May 2019) that states all development proposals should minimise, and where possible, reduce air, water, light and noise pollution and have concerns with regards to public nuisance, that the proposed extension to the hours of operation to the early hours of the morning will likely have a detrimental impact on the amenities of nearby noise sensitive receptors, i.e. residential properties, along the High Street as well as to the rear of the premises on Middle Row and Church Lane.

Environmental Health Officer Sue Bedford has concerns relating to the licensing objective prevention of public nuisance. To summarise, Chickaros Chicken and Grill is located in a noise sensitive area, and although no complaints have been received from local residents about noise being emitted from this particular food business, there have been complaints received from local residents about noise being emitted from other business operating in this area. The extension to the existing trading hours will not only exceed that of

other businesses in the area, but customers using the takeaway after drinking at other local premises. The operation of equipment, namely the extract ventilation systems into the early hours when the ambient background noise levels will be much reduced, is likely cause noise nuisance to local residents.

Representations are attached at Appendix C.

## **6 INTERESTED PARTIES**

- 6.1 No Representations have been made by other interested parties, including local residents.

## **7 IMPLICATIONS**

### **7.1 Financial Implications**

- 7.1.1 There are no financial or resource implications arising from the content of this report.

### **7.2 Legal Implications**

- 7.2.1 The Committee is advised that paragraphs 9.1 – 9.12 & 9.31- 10.10 of the Guidance under section 182 of the Act describe the powers of a Licensing Authority on the determination of an application.
- 7.2.2 The following options are available to the committee under section 35(4) (a) and (b) of the Licensing Act 2003:
- To modify the conditions of the licence
  - To reject the whole or part of the application

### **7.3 Policy Implications**

#### **7.3.1 *Stevenage Borough Council Statement of Licensing Policy 2020 – 2025***

The following sections of the licensing authority's statement of licensing policy apply to this application:

17.2 The Licensing Authority, in determining if the application for a review is relevant, will have regard to the current guidance issued by the Secretary of State under section 182 of the Act in so far as to whether an application is frivolous, vexatious or repetitious. Representations made by a responsible authority cannot be deemed as being frivolous, vexatious or repetitious.

17.4 In instances where the crime prevention objective is being undermined, revocation, even in the instance of this being a first review of the premises licence, or club premises certificate, will be given serious consideration.

#### **7.3.2 *Guidance issued under section 182 of the Licensing Act 2003***

The Committee is reminded of the Guidance issued under section 182 of the Licensing Act 2003. These particular sections are relevant to this review application:

The Review Process paragraphs 11.1 – 11.11

Repetitious Representations paragraphs 11.12 – 11.15

Reviews arising in connection with crime paragraphs 11.24 – 11.28

#### **7.4 Equalities and Diversity Implications**

- 7.4.1 Any decision by the Committee is based on evidence before it at the meeting; there are no equalities and diversity implications.

#### **7.5 Crime and Disorder**

- 7.5.1 The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

### **8 BACKGROUND DOCUMENTS**

- BD1 Licensing Act 2003
- BD2 Stevenage Borough Council, Statement of Licensing Policy 2020-2025
- BD3 Guidance issued under section 182 of the Licensing Act 2003

### **9 SUPPLEMENTARY INFORMATION**

Prior to the end of the consultation period for this application, the Licensing Officer has liaised with the applicant to discuss the representations received. The applicant was asked if they would be willing to voluntarily amend their application for the Variation of Premises licence to include the following conditions:

- Extract ventilation shall be fitted and maintained in accordance with the manufacturer's specification and maintenance records must be kept and made available for inspection by Local Authority Officers.
- The Extract ventilation system shall be switched off following the closure of the kitchen each night.
- No deliveries shall be made to the premises between 22:00hrs and 08:00hrs.
- No Rubbish shall be handled by staff externally after 23:00hrs, with the exception of removing litter from the streets within the vicinity of the premises.

- All staff will be reminded to respect the needs of local residents and shall not congregate in the outside area within the vicinity of the premises after 23:00hrs.

**The applicant has agreed to voluntarily amend their application to include all five of these conditions. This was confirmed by email on 7<sup>th</sup> December 2022.**

The applicant was also asked if they would be willing to voluntarily amend the timings proposed in their application.

**The applicant has agreed to voluntarily amend the timings proposed in their application to the following:**

- To close the store to the public at 02.30hrs instead of 03.30hrs Thursday to Saturday and provide a delivery only service after 02.30hrs.

The proposals made by the applicant to voluntarily amend their application have been passed to those responsible authorities who have made representations. On 8<sup>th</sup> December the police replied stating that they wish to uphold their representation. No response had been received from the Planning Authority or Environmental Health upon the deadline for the publishing of this report.

## **10 APPENDICES**

- A Application to vary a premises licence
- B Location map
- C Representations from Responsible Authorities
- D Current Premises Licence