London Borough of Hammersmith & Fulham

Licensing Sub-Committee

Supplementary Agenda B

Wednesday 2 April 2025 at 6.30 pm

This meeting will be held remotely

Watch the meeting live: youtube.com/hammersmithandfulham

MEMBERSHIP

Administration:	Opposition:
Councillor Mercy Umeh (Chair) Councillor Paul Alexander	Councillor Dominic Stanton

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Public Notice

This meeting will be held remotely. Members of the press and public can watch the meeting live on YouTube: youtube.com/hammersmithandfulham

Speaking at Licensing meetings is restricted to those who have submitted a representation and registered to speak.

Date Issued: 31 March 2025

London Borough of Hammersmith & Fulham

Licensing Sub-Committee Supplementary Agenda B

2 April 2025

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BEFORE A LICENSING SUB-COMMITTEE

OF THE LONDON BOROUGH OF HAMMERSMITH & FULHAM

Re: A variation application under the Licensing Act 2003

WENDY'S

(an application by GH Burgers Ltd,

563 Fulham Road, SW6 1ES)

RESIDENTS' SUBMISSIONS OBJECTING TO THE PREMISES LICENCE VARIATION APPLICATION

FOR HEARING ON 2 APRIL 2025

Introduction

1. These submissions are made on behalf of the occupants of some 177 residential premises who live within the vicinity of Fulham Broadway and so are likely to be impacted by the outcome of this variation application by GH Burgers Ltd. The following residents, or bodies representing residents, have made separate representations, but agree to be represented together by a single advocate at the hearing on 2 April 2025:

    a. Barclay Road Residents on behalf of over 98 residential households (plus a petition with 56 signatories opposing this application);[1]

    b. [redacted] of Vanston Place Management Company on behalf of 42 residential apartments in Vanston Place;[2]

    c. [redacted] of Fulham Island Residents Association which includes 32 residential apartments in pedestrianized Jerdan Place;[3]

    d. [redacted];[4]

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[1] Formally known as Barclay Road Conservation Area Neighbourhood Watch. Representation at page 62 of Agenda Papers. Petition at: https://www.change.org/p/stop-wendy-s-5am-3am-hot-food-licence-in-fulham-broadway

[2] Representation at page 64 of Agenda Papers.

[3] Representation at page 68-71 of Agenda Papers.

[4] Representation at page 72 of Agenda Papers.

e. [redacted];[5]

f. [redacted];[6]

g. [redacted];[7]

h. [redacted].[8]

2. The applicant, GH Burgers Ltd, has applied to vary an existing premises licence for premises at 563 Fulham Road, SW6 1ES where they have recently began to operate a fast food burger takeaway restaurant trading as "Wendy's". Since 2013 the premises had operated as a Thai restaurant. The applicant now wishes to provide late night refreshment (hot food and hot drink) for eat-in customers, take-aways, and delivery services much later into the night and well beyond the suggested hours within the Council's Statement of Licensing Policy.

3. The residents strongly object to any extension of hours beyond the Council's policy hours because it is likely to undermine the licensing objectives and, in particular, the prevention of crime and disorder and the prevention of public nuisance.

4. There is *no* objection to the parts of the variation application which seek:
    a. An earlier start time of 8am;
    b. The removal of sale of alcohol as a permitted licensable activity;
    c. The addition of agreed conditions;
    d. To update the licence plans.

The hours extension & Policy

5. In relation to the controversial terminal hours, the amended application seeks to extend the terminal hours for late night refreshment as follows:

[5] Representation at page 73 of Agenda Papers.
[6] Representation at page 75 of Agenda Papers.
[7] Representation at page 77 of Agenda Papers.
[8] Representation at page 79-82 of Agenda Papers.

a. On Sundays from 23:30 to 01:00hrs (an extension of 90 minutes).

b. On Monday to Thursday from 00:30 to 01:00hrs (an extension of 30 minutes each night).

c. On Friday and Saturday from 00:30 to 03:00hrs (an extension of 2 ½ hours each night).

6. These terminal hours, if granted, would be:

a. Considerably in excess of the suggested closing times set out in the Council's Statement of Licensing Policy 2022-2027 for late night refreshment premises within a "Town Centre" which propose a terminal hour of 01:00 on Friday-Saturday and midnight on Sunday ("hours policy").[9] Although, seemingly in error, the Policy omits to provide any suggested hours for Monday-Thursday nights, it is understood the Council's original intention was for midnight to be the terminal hour.[10] (As the Agenda Report in this matter alludes, after 11pm this premises will be more akin to a late night refreshment take away than an traditional sit down restaurant, hence why the residents agree with the reporting officer that the Late Night Refreshment suggested hours are the most appropriate ones).

b. Out of kilter with most other takeaway premises in the vicinity.[11] (E.g. Pho at Fulham Broadway advertises its terminal hour at 10pm, Wagamama in Fulham Broadway closes at midnight[12], and Five Guys at Fulham Broadway indicates it closes at 11.30pm Friday-Saturday and 11pm Monday-Thursday. Many others takeaway restaurants in the vicinity close at 11pm and so do not require a late night refreshment licence).

[9] As set out in the Agenda Report at §5.4 p.11
[10] As indicated in communications with Adrian Overton. The midnight suggested closing time for Monday-Thursday is also referenced in the Decision Notice for Papa John's application
[11] For which see Table at p.55-61 of Agenda Papers
[12] Although its licence permits licensable activities until 00:30 Monday-Saturday and midnight Sunday

c. Likely to add to the existing cumulative impact issues in the Fulham Broadway area of crime, disorder, anti-social behaviour and nuisance which are currently undermining the licensing objectives and blighting the lives of too many local residents who live in close proximity to Wendy's.

7. Today's case is an important test of the Council's resolve in standing by its own hours policy as set out in its current Statement of Licensing Policy 2022-2027. This hours policy (Licensing Policy 3) was designed to protect residents and guide new and current operators. It would have been known to the current experienced applicant when they took over this premises and so the applicant had no reasonable expectation that they would be able to extend their hours beyond those already on their premises licence. The hours policy seeks to balance the often competing interests of operators, town centre users and residents.[13] It was introduced by the Council partly in order to mitigate the potentially damaging consequences of the Council deciding not to renew its Cumulative Impact Policy (CIP), which previously covered the Fulham Road/Broadway area[14]. The decision not to renew the CIP, which previously created a rebuttable presumption of refusal for applications such as the current one[15], was contrary to the "strong support" for retaining the CIP expressed by local residents during the consultation exercise on the 2022-2027 Statement of Licensing Policy.[16] It is, therefore, the hours policy which local residents now look to as their primary protection against the impact of late night premises on their and their family's lives**. <u>Their modest and reasonable request is that this sub-committee</u>**

[13] See Foreword to Licensing Policy by Cllr Cowan: "In 2018 with 'The Change We'll Bring Together', we said that we'd support the night-time economy in our town centres in a way that is sensitive to local residents but enhances the borough as a destination for inward investment, tourists and visitors and we did what we promised"
[14] See Agenda Papers and Minutes for Full Council meeting on 13 July 2022: https://democracy.lbhf.gov.uk/ieListDocuments.aspx?CId=114&MId=7337
[15] See 2017-2022 Statement of Licensing Policy at §6.1-6.8: https://www.lbhf.gov.uk/sites/default/files/section_attachments/statement_of_licensing_policy_2017_-_2022.pdf and Annex 2 here: https://www.lbhf.gov.uk/sites/default/files/SLP_post_consultation_2015_Final_CIP_analysis_tcm21-199178.pdf
[16] See Agenda Papers and Minutes for Licensing Committee meeting on 27 June 2022: https://democracy.lbhf.gov.uk/ieListDocuments.aspx?CId=176&MId=7328

stands by the Council's own hours policy in the current case and does not grant terminal hours in excess of these hours.

8. It is accepted that no policy is absolute. The Council is able to depart from any licensing policy, but in order to do so lawfully it must provide cogent reasons that go to the heart of the reasons for the policy being introduced.[17] The current application is not exceptional and exhibits little to nothing that would justify such a radical departure from the policy hours as the applicant now proposes:

    a. The surrender of permission to sell alcohol is unlikely to make any real (as opposed to theoretical) difference to the situation that existed before. The Thai restaurant that previously occupied this premises was a food-led premises for over a decade, not an alcohol-led one. This is *not* a case of a vertical-drinking bar being transformed into a food-led premises thereby justifying an extension of hours. Indeed, the present licence conditions would not permit a vertical drinking establishment to operate here in any event[18]. No Wendy's store sells alcohol in the UK, they are surrendering nothing of real value to them.

    b. The conditions proposed by the applicant and agreed by the police are nothing unusual – they merely replicate steps that any responsible operator would do in order to promote the licensing objectives, whether conditioned on the licence or not.

    c. Nothing is proposed that would effectively ensure residents are not disturbed by scores of delivery drivers arriving and departing at Wendy's through into the early hours with the noise and nuisance.

[17] See eg Westminster City Council v Chorion [2002] EWHC 1104

[18] Conditions 11 and 12 on Annex 2 of the licence require the service of alcohol to be by waiter/waitress service to customers seated at tables and for substantial food to be available at all times. See Agenda Papers, p.23

d. Nothing is proposed that would prevent customers of Wendy's disturbing nearby residents as they arrive at the premises or after they have left it.

e. Nothing is proposed that would prevent people who have been enjoying themselves in alcohol-led premises elsewhere staying in this location for longer in order to enjoy a very late-night burger. Nothing can prevent people travelling into this area specifically to buy a burger from such a late night venue thus bringing more people into this sensitive area at times when local residents and their children are trying to sleep. This adds to existing cumulative impact in the area (even without a cumulative impact policy being in place, for which see below).

9. The policy hours should be given considerable weight since at least two of the factors the Statement of Licensing Policy highlights as being particularly relevant are present in today's case as follows:[19]

> *Where there is a relevant representation, the Licensing Authority will consider each particular case on its merits having regard in particular to the following matters:*
>
> *a) Whether the licensed activities are likely to have an adverse impact especially on local residents and, if there is potential to have an adverse impact, what, if any, appropriate measures will be put in place to prevent it;*
>
> *b) Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;*

10. Each case will, of course, be decided on its individual merits and one decision of the Council does not create a binding precedent for the next one. But it would be artificial to ignore the fact that other operators of licensed premises will be looking to this decision to gauge what weight, if any, the Council places on its hours policy. Should this application be granted, it may prove difficult to justify a refusal of the raft of new applications for extended hours that are likely to

[19] Policy 3 at pages 20-21 of the Policy

come in as a result of other local operators learning of such a decision. Similarly, other late night refreshment operators in the area which in recent years have had similar applications rejected by the Council on policy hours grounds may feel aggrieved should today's application be granted.[20]

The location & Cumulative Impact

11. Although a "Town Centre" location, Fulham Broadway is unusual in its high residential density. Residents live cheek by jowl with Wendy's and other licensed premises, both on the Fulham Road itself and in the residential side streets (for which see map on page 54 of the Agenda Papers). The Council's own 2024 profile of Walham Green Ward, in which Wendy's is located, correctly states: *"**The ward is almost entirely residential in character, with the exception of the shopping centre and many commercial premises alongside Fulham Road.**"*[21]

12. Further, according to Council statistics, Walham Green Ward has a population of 7,956 people who live within 3,591 dwellings. These include numerous dwellings housing young families. The population density of the Ward is 16,510 people per square kilometre (compared to 11,161 in Hammersmith and Fulham as a whole and 5,598 for London). [22]

13. With so many residents, living so close to Wendy's, applications for extended hours that go beyond the policy hours need to be looked at with considerable care and caution – there is no presumption to grant such applications.

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[20] Eg Papa John Pizza, Walham Grove. application on 14 February 2023: https://democracy.lbhf.gov.uk/ieListDocuments.aspx?CId=179&MId=7466 and Morley's Chicken, North End Road application on 5 July 2023: https://democracy.lbhf.gov.uk/ieListDocuments.aspx?CId=179&MId=7604

[21] https://www.lbhf.gov.uk/councillors-and-democracy/about-hammersmith-fulham-council/ward-profiles/walham-green-2024

[22] https://www.lbhf.gov.uk/councillors-and-democracy/about-hammersmith-fulham-council/ward-profiles/walham-green-2024/who-we-are

14. The impact of all these licensed premises in a relatively small area is eloquently expressed in the representations from residents within the Agenda Papers, which need not be duplicated here. But, in addition, the following three comments taken from the online petition objecting to this application speak volumes and echo what residents experience on a near daily basis:[23]

[redacted]

> *We have a [redacted] nto the alley behind Fulham Broadway, less than a minute from Wendy's. Unfortunately, this alley has become a hotspot for antisocial behaviour, especially on football match days — shouting, fighting, public urination — all just beneath our windows. The noise is relentless and deeply disruptive to our baby's sleep. As any parent knows, a sleep-deprived infant means an exhausted, stressed household. [redacted] and the impact on our daily lives has been overwhelming. I've been catcalled and harassed while walking home, and when we've spoken up, people have thrown cans and food at our windows. Delivery drivers often park below us, revving engines and playing loud videos. Since Whole Foods closed, we've had a bit of peace from delivery drivers — though not the football fans. But we fear this reprieve will vanish if Wendy's is allowed to extend its opening hours. We already live with the consequences of late-night noise; any extension will make our home — and our child's sleep — unliveable.*

And,

[redacted]

> *As a parent of a young child, I'm already struggling with the amount of late-night noise in the area. Even with Wendy's current closing time, the loud traffic, shouting, and delivery bikes often wake my child up — and getting her back to sleep isn't always easy. Extending the opening hours until 5am would only make this worse. This neighbourhood is largely residential, and families like mine rely on the relative quiet at night to get rest. I'm deeply concerned that longer hours will attract more disruption, more loitering, and even more delivery drivers congregating outside at all hours. It's not fair on residents, and it's not what we signed up for when we chose to live here. Please don't let this go ahead.*

And,

[redacted]

[23] Petition at : https://www.change.org/p/stop-wendy-s-5am-3am-hot-food-licence-in-fulham-broadway

As a female resident [redacted] I walk through Fulham Broadway and past Wendy's daily. It's part of my daily routine, whether I'm commuting, running errands, or heading home in the evening. Sometimes, I pass by later at night, and for me, the feeling of safety in my neighbourhood is essential. I chose to move to this area precisely because it felt safe, clean, and quiet at night — a rare combination in central London. The thought of Wendy's being open until 5 AM raises serious concerns. Late-night openings tend to attract crowds, create noise, and often bring increased anti-social behaviour. It's not just the inconvenience — it's a sense of unpredictability, the discomfort of walking past groups of people loitering outside, and the real fear of theft or confrontation that starts to creep in. Extending Wendy's hours could seriously impact the peaceful nature of Fulham Broadway and compromise the safety that so many of us value here. I want to continue feeling safe walking home—not second-guessing my route or the time I come back. That's why I fully support this petition and hope others will stand with us to protect the integrity of our neighbourhood.

15. The sheer number of licensed premises in the vicinity is evident from the Table within pages 55-61 of the Agenda Papers. It is unsurprising that residents repeatedly speak about the negative cumulative impact caused by having all these licensed premises so close to their front doors and bedroom windows.

16. Unsurprisingly, police statistics still list Fulham Broadway as a crime hot spot in the Borough.[24]

17. It is highly likely that should Wendy's be granted hours beyond the Council's hours policy, then its operation will add to this cumulative impact. How could it not, when more people (customers and delivery drivers) will be coming into Fulham Broadway later into the night to buy or collect their burgers? Whilst posting SIA door supervisors at Wendy's and operating a dispersal policy may help with issues arising inside or on the doorstep of Wendy's, it is unlikely to help when those same customers (including some troublemakers) walk away towards residential premises and disturb the occupants in the early hours of the morning.

[24] See crime printout from Police UK at Supplementary Agenda A, p.12

18. Despite there no longer being a Cumulative Impact Policy in place creating a rebuttable presumption of refusal, this sub-committee can still take into account the strong evidence of cumulative impact from residents in determining this application and the residents positively invite the sub-committee to do so. This would be entirely in accordance with the Council's Statement of Licensing Policy, Policy 4 which states (with emphasis added):

> *POLICY 4: CUMULATIVE IMPACT*
>
> ***The Licensing Authority will have regard to cumulative impact generally during the duration of this policy.***
>
> *We are keen to welcome and support new businesses in the borough. We will balance this with our responsibility to identify where an area is receiving a lot of complaints about existing licensing activity. We will consider if, by granting a licence, it would contribute to the negative impact in the area.*
>
> *Any Responsible Authority or other persons may object to applications for new premises licences/certificates or variations of existing licences, on the grounds that the premises will have a negative cumulative impact in the area in question, on one or more of the four Licensing Objectives. See Section 182 guidance, which contains further information on cumulative impact.*
>
> ***In determining an application where there has been a relevant representation the Licensing Authority will, where appropriate, take into account the cumulative effect of the number, type and density of licensed premises already existing in the area.*** *Consideration will be given to the proximity to any drug and alcohol treatment site,* ***A&E department*** *or* ***homeless hostel*** *in a local area type remit ie* ***applicants need to make the case for how they would not increase further problems for residents/clients nearby****.*

19. In addition to the proximity of residents, Wendy's is located:
    a. 0.7 miles from Chelsea and Westminster Hospital
    b. 0.5 miles from Fulham Ambulance Station
    c. 500 feet from Glass Door Homeless Charity.

Conclusion

19. For these reasons, the Council is invited to either:
    a. Reject the application as a whole; or

b. Grant the variation but only in terms that ensure the terminal hours do not exceed the policy hours, namely, 01:00hrs on Friday-Saturday (an extension of 30 minutes), midnight on Monday-Thursday (a reduction of 30 minutes, alternatively to leave the present 00:30 hours in place), and midnight on Sunday (an extension of 30 minutes).

20. In either case, the decision would promote the licensing objectives in an appropriate and proportionate manner, be in accordance with policy, and give some relief to residents who live nearby and wish to have a "window of quiet for sleeping".[25]

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[25] See representation of [redacted] at page 69 of Agenda Papers