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1. THE APPLICATION

On 16 June 2021, Mr Anas Qamar (“the applicant”) submitted an application for a Premises Licence to be granted in respect of the premises to be known as Flame House, located at 280 Uxbridge Road London W12 7JA.

1.1 Application Requested

The applicant has applied for a new premises licence for late night refreshment as outlined below:

Late night refreshment – Indoors only

Monday to Sunday 23:00 - 02:00

Hours open to public:

Monday to Sunday 12:00 - 02:00

A copy of the application form and plan can be seen on pages 9-14 of this report.

1.2 Applicants Operating Schedule

The applicant has proposed a number of steps to promote the four licensing objectives if the application is granted. A copy of these steps can be seen on pages 15-16 of this report.

On 12 August 2021, following correspondence received from Noise and Nuisance, the applicant agreed to amend the activity times and opening hours to their licence if granted as outlined below:

Late night refreshment – Indoors only

Monday to Sunday 23:00 - 01:00

Hours open to public:

Monday to Sunday 12:00 - 01:00

A copy of this amendment and relevant correspondence can be seen on pages 19-20 of this report.

2. BACKGROUND

This premises is a ground floor Mediterranean restaurant. On 02 December 2020 Flame Flame Ltd submitted an application for a new premises licence under the same address (ref number: 2020/01104/LAPR) which was then refused on 18 January 2021 following a Sub-Committee hearing. Prior to this, the premises operated as a restaurant between 2014 and 2017 run by Habanera Restaurants Ltd. However, the licence (ref number: 2016/01331/LAPR) was surrendered on 14 September 2017.

The main access to the premise's unit is proposed to be located at Uxbridge Road. There is a mixture of both residential and commercial premises within the area. A map showing the location of the premises and neighbouring licensed premises can be seen on pages 17-18 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Uxbridge Road area. Shepherd's Bush Market tube station is a 3-minute walk away and Wood Lane tube station is a 14-minute walk away.

3. CONSULTATION

A public notice was displayed at the premises for 28 days. The application was advertised in a local circular and all statutory consultees were notified as required by the Regulations. The Council has served written notice of hearing upon the applicant and all those parties that have made representations in respect of the application.

3.1. Relevant Representations

The licensing section received one representation from the Macfarlane Road Residents' Association objecting to the licence application. A copy of this representation can be seen on pages 21 of this report.

The licensing section received eight representations from local residents objecting to the licence application. A copy of these representations can be seen on pages 22-31 of this report.

4. OTHER INFORMATION

4.1 Enforcement History

On 01 December 2020, a warning letter was issued by Mr Adebayo Olanrewaju, Licensing Compliance and Enforcement Officer, following unauthorised licensable activities (including provision of late-night refreshments) observed via council CCTV on the 06 October 2020, 31 October 2020 and 09 November 2020.

4.2 Temporary Event Notices ("TENs")

No TENs have been submitted in respect of this premises in the past twelve months.

5. POLICY CONSIDERATIONS

5.1 Section 5.1 page 12 of the Statement of Licensing Policy ("SLP") states that 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:

- 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;

- Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- Whether the activity will be likely to lead to a harmful and unmanageable increase in car parking demand in surrounding residential streets suffering high levels of parking stress or on roads forming part of the Strategic London Road Network or the London Bus Priority Network leading to a negative impact on the Licensing Objectives relating to the prevention of crime, disorder and nuisance; and
- Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

5.2 Section 5.2 page 12 of the SLP states that the Licensing Authority will closely scrutinise extended hours applications to ensure that the Licensing Objectives are met. In determining an application, the licensing committee might decide that the circumstances are such that a restriction on hours is the only appropriate means to achieve the Licensing Objectives. If an 'hours' restriction is imposed, the Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol. For example, if the closing time on the application is stated as 12 midnight, the latest time that a licence would be granted to serve alcohol would be 11:30pm, as the Licensing Authority will normally allow a minimum of 30 minutes to consume alcohol that has been purchased before the terminal hour.

5.3 Section 5.4 page 13 of the SPL states that the Licensing Authority advises applicants that it would be beneficial if a lawful planning use can be demonstrated for the activities proposed in all applications for premises licences.

5.4 Section 6.1 page 13 of the SLP state that in determining an application where there has been a relevant representation the Licensing Authority will, where appropriate, take into account the cumulative (collective) effect of the number, type and density of licensed premises already existing in the area. A saturation of licensed premises can attract customers to an area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders.

5.5 Section 6.2 page 13 of the SLP state that in accordance with paragraph 13.30 of the Secretary of State's current Guidance, where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area, the Licensing Authority may consider it inappropriate for any further licensed premises to be established in the area, or extension to licensed hours of existing premises to be approved. In such circumstances, an application for a licence for activities which would undermine the promotion of any of the four Licensing Objectives would be refused.

5.6 Section 6.8 page 14 of the SLP states that in coming to any decision regarding cumulative impact the Licensing Authority will also have regard to other mechanisms outside of the licensing regime which may also be available to address this issue, these are:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)

- Police enforcement of the normal law concerning disorder and anti-social behaviour.
- Prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- Prosecution of any personal licence holder or member of staff at such premises who is selling to underage persons or selling illegal alcohol or tobacco
- Police powers to close down instantly any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises, for up to 24 hours.
- The power of the police, other responsible authorities, a local resident, business or Councillor to seek a review of the licence or certificate in question.
- Police and Local Authority power to issue a Closure Notice for up to 48 hours where serious antisocial behavior is taking place at licensed premises under the Anti-social Behaviour, Crime and Policing Act 2014.

5.7 Section 8.1 page 15 of the SLP states that the Licensing Authority will require applicants to detail in their operating schedule the steps proposed to ensure the deterrence and prevention of crime and disorder on, and in the vicinity of, the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to use the premises.

5.8 Sections 15.11 pages 30 and 31 of the SLP states that the following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- **Deliveries/collections** – noise from deliveries to and/or collections (e.g. refuse) from the premises are another common source of complaint. Consider the times of such deliveries/collections and make sure you specify to any contractors that deliveries/collections should not be made at antisocial times. As a guide, the Noise and Nuisance Service recommend that deliveries/collections should only be made between the hours of 7:30am and 9:00pm, depending on the proximity of residential and/or other noise-sensitive properties.
- **Late night refreshment** - applicants in respect of late night takeaways should demonstrate that they have assessed the risk of persons congregating in large numbers in the vicinity of their premises. Where appropriate, applicants should demonstrate suitable measures to address this problem.
- **Light pollution** – this is an increasingly common source of complaint, particularly from illuminated signs and external security lighting. Where provided, illuminated signs should not cause glare to neighbouring properties, ideally being turned off at night, and external lighting should be angled and/or diffused to also prevent nuisance.
- **External Areas** – External areas such as gardens can be the source of noise disturbance to surrounding premises. Consider limiting the use of the garden to a reasonable time and number of people.
- **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fast-food takeaways. The Council's Noise and Nuisance Service may therefore require evidence that the kitchen ventilation and/or extract systems are regularly maintained and serviced to ensure that it is

operating efficiently and with minimal nuisance to neighbours arising from odour and also noise. This includes the siting of BBQs.

- **Queue management** - establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage queues so as to minimise the potential for crime and disorder or public nuisance by customers who are queuing.
- **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day. Consideration should also be given to the time of deliveries to minimize disruption to local residents.
- **Litter** – for example, litter patrols for late night take-away premises

6. DETERMINATION

6.1 In determining this application, the Committee must have regard to the representations and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) Grant the application in full
- (b) Grant the application in part – modifying the proposed hours, activities or conditions.
- (c) Reject the application.

It is the Council's duty under the Licensing Act 2003 ("The Act") to determine applications with a view to promoting the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In reaching a decision the Council shall consider the details of any relevant representations received; the applicant's Operating Schedule; the Council's adopted Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Act.

If the Committee is minded to grant the application, conditions may be attached to the licence to alleviate the concerns raised through any representation(s).