

<u>Contents</u>	<u>Page</u>
1. THE APPLICATION	63
1.1. Current Hours of Operation	63
1.2. Application Requested	63-64
1.3. Applicants Operating Schedule	64
2. BACKGROUND	64
3. CONSULTATION	65
3.1 Relevant Representations	65
4. OTHER INFORMATION	65
4.1 Enforcement History	65
4.2 Temporary Event Notices (“TENS”)	65
5. POLICY CONSIDERATIONS	65-67
6. DETERMINATION	67-68

APPENDICES

Copy of current licence and plan	69-80
Copy of full variation application	81-95
Map showing location of premises and neighbouring premises.....	96-97
Copy of representation from Greenside Residents Action Group	98-101
Copy of representation from local residents.....	102-106
List of Temporary Event Notices	107-108
Applicant’s letter to residents and objector’s response	109-111

1. THE APPLICATION

On the 07 April 2022, Mr Frazer Timmerman (“the applicant”) submitted an application to vary the premises licence in respect of premises known as The Hawks Nest, located at 190 Railway Arches Shepherd's Bush Market London W12 8DF.

1.1 Current Hours of Operation

The premises currently benefit from a premises licence. The current premises licence permits the following:

Performance of Live Music -Both Indoors and Outdoors

Monday to Sunday	23:00 - 00:00 (Indoors)
Monday to Sunday	12:00 - 22:30 (Outdoors)

Playing of Recorded Music -Both Indoors and Outdoors

Monday to Sunday	23:00 - 00:00 (Indoors)
Monday to Sunday	12:00 - 22:30 (Outdoors)

Sale of Alcohol On the Premises

Monday to Sunday	12:00 - 00:00 (Indoors Archway 190)
Monday to Sunday	12:00 - 22:00 (Outdoor Area)

The opening hours of the premises

Monday to Sunday	12:00 - 00:30 (Indoors Archway 190)
Monday to Sunday	12:00 - 22:30 (Outdoor Area)

A copy of the current premises licence and plan can be seen on pages 69-80 of this report.

1.2 Application Requested

The applicant has applied to vary the hours for the sale of alcohol, recorded music and live music in the outdoor area as well as remove and replace conditions. Based on the application form, the applicant has stated that the current outside area will be covered by an acoustic roof at 22:00.

The proposed days and times are as follows:

Performance of Live Music

Monday to Saturday	23:00 - 00:00 (Outdoors)
--------------------	--------------------------

Playing of Recorded Music

Monday to Saturday	23:00 - 00:00 (Outdoors)
--------------------	--------------------------

Sale of Alcohol – Both On and Off the Premises

Monday to Saturday	12:00 - 00:00 (Outdoor Area)
Sunday	12:00 - 22:30 (Outdoor Area)

The opening hours of the premises

Monday to Saturday

12:00 - 00:30 (Outdoor Area)

Sunday

12:00 – 22:30 (Outdoor Area)

The licensee wishes to remove the following condition:

18. Children shall not be permitted after 19:00 and they must be accompanied by an adult if visiting the Premises prior to this point.

The licensee wishes to replace the following conditions:

20. After 22:30 where customers are permitted to temporary leave e.g. to smoke and then re-enter the premises, shall not be permitted to take drinks or glass containers with them.

21. After 22:30 customers who are smoking shall be contained within the area outside the archway bar and either a member of the management team or an SIA door supervisor shall monitor the noise levels of customers smoking or leaving the venue.

With:

20. The retractable roof over the seating area outside must be closed no later than 22:00 each day.

21. When the roof is closed customers who wish to smoke shall do so in the area between the premises and the gates on Goldhawk Road. Customers shall not be permitted to consume alcohol in that area. Noise levels of those in the smoking area shall be monitored by a member of staff.

No other changes to the permitted hours, activities or conditions are sought or implied.

A copy of the application form can be seen on pages 81-95 of this report.

1.3 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 page 92 of this report.

2. BACKGROUND

The main access to the premise's unit is located on Goldhawk 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 96-97 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Shepherd's Bush Market area. Goldhawk Road tube station is a 2-minute walk away and Shepherd's Bush Market tube station is a 5-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 Greenside Residents Action Group objecting to the licence variation application. A copy of this representation can be seen on pages 98-101 of this report.

The licensing section received four representations from local residents objecting to the licence variation application. A copy of these representations can be seen on pages 102-106 of this report.

On the 12th May 2022 the applicant's licensing solicitor requested for a letter to be forwarded to all objectors to invite residents along to a meeting in order to discuss any concerns raised. A copy of this letter and the objector's response can be seen on pages 109-111 of this report.

4. OTHER INFORMATION

4.1 Enforcement History

On 25 September 2020 an inspection sheet was left at the premises as a warning letter following breaches of licence conditions ascertained during full licensing inspection undertaken at the premises.

4.2 Temporary Event Notices ("TENs")

A number of TENs have been submitted in respect of this premises in the past twelve months. A list of these TENs can be seen on pages 107-108 of this report.

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 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.

5.3 Section 8.10 page 16 of the SLP states that it is important that staff working at off licences are suitably trained and receive appropriate refresher training in their responsibilities under the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- The likelihood of any violence, public order or policing problem if the licence is granted;
- The measures taken to control admission to the premises, and to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises, where and to the extent that these matters are within their control.
- Past conduct and prior history of complaints against the premises;
- Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
- Any relevant representations.

5.4 Section 9.6 page 18 of the SLP states that the Licensing Authority will, where appropriate, attach conditions to a licence to ensure public safety, dealing with, but not limited to. the following:

- The number of people on the premises to ensure it is appropriate having regard to the activities taking place and reliable ways of counting the number;
- The steps taken to manage the risk from glass, the use of bottle bins, glass collectors and door supervisors to prevent glass being taken off the premises;
- The use of door supervisors to manage the entrance and exit from the premises and to protect public safety as customers leave the premises; and
- The provision of air conditioning and ventilation.

5.5 Section 10.3 page 19 and 20 of the SLP states that the Licensing Authority will particularly consider the following matters where they are material to the individual application:

- One of the most common complaints the Licensing Authority receive is about nuisance caused by customers as they leave licensed premises at night. The Licensing Authority recommends that primarily alcohol led premises such as

nightclubs and pubs, located close to any residential premises, implement a dispersal policy at their venue. All relevant staff should be trained on any policy, and all reasonable steps should be taken to ensure it is fully implemented and adhered to at all times.

- The proximity of residential accommodation;
- The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance late at night and/or in the early hours of the morning. However nuisance can arise at any time of the day or night so the Licensing Authority will consider representations from Responsible Authorities and/or Interested Parties relating to potential nuisance from any activity at all times dependant on the merits of the application/steps taken or proposed to prevent nuisance.
- Limiting the number of people permitted to use a garden/other open-air areas, including those for the use of smoking, at any one time.
- Restricting the use of a garden/other open-air areas, including those for the use of smoking, after a particular time e.g. 11:00pm (or such earlier time as may be considered appropriate).
- The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- The delivery and collection areas and delivery/collection times;
- The siting of external lighting, including security lighting that is installed inappropriately;
- The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licence holder;
- The history of the applicant in controlling anti-social behaviour and preventing nuisance;
- The generation of odour, e.g. from the preparation of food;
- Any other relevant activity likely to give rise to nuisance;
- Any representations made by the Police, or other relevant agency or representative;

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 the representations.