

<b><u>CONTENTS</u></b>	<b><u>PAGE</u></b>
1. THE APPLICATION	4
1.1. Application Requested	4
1.2. Applicants Operating Schedule	4 - 5
2. BACKGROUND	5
3. CONSULTATION	5
3.1 Relevant Representations	5
4. OTHER INFORMATION	6
4.1 Enforcement History	6
4.2 Temporary Event Notices (“TENs”)	6
5. POLICY CONSIDERATIONS	6 - 9
6. DETERMINATION	10

## **APPENDICES**

Copy of Application and Plan	11 - 15
Agreed conditions and relevant correspondence from the Police	16 - 18
Map showing location of premises and neighbouring premises	19 - 21
Copy of representations from noise and nuisance	22
Copy of representations from local residents	23 - 29

## 1 THE APPLICATION

On the 12<sup>th</sup> July 2022, Mr Ahmed Rihan ("the applicant") submitted an application for the grant of a premises licence in respect of the premises known as Rihan Valley located at 98A North End Road London W14 9EX

### 1.1 Application Requested

The applicant has applied for the grant of a new licence for the provision of late-night refreshment at the premises. The proposed days and times are as follows:

#### **The provision of Late-night refreshment - Both Indoors and Outdoors.**

Monday to Sunday	23:00 to 02:00
------------------	----------------

#### **The Opening hours of the premises**

Monday to Sunday	11:00 to 02:00
------------------	----------------

A copy of the application form and plan can be seen on pages 11 to 15 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 page 14 of this report.

On 17<sup>th</sup> August 2022, following correspondence received from the Police, the applicant agreed to add the following conditions to the licence if granted, in line with condition 3 below, the proposed days and times agreed with the police are as follows:

#### **The provision of Late-night refreshment - Outdoors Only**

Monday to Sunday	23:00 to 02:00
------------------	----------------

1. *High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities and;*
  - *shall be checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and name of the person checking, shall be kept and made available to Police or authorised Council officers on request*
  - *one camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering.*
  - *shall cover any internal or external area of the premises where licensable activities take place.*
  - *recordings shall be in real time and stored for a minimum period of 31 days with date and time stamping.*
  - *footage shall be provided free of charge to Police or authorised council officer within 24 hours of a request.*
  - *a staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times. This staff member will be able to show police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested. This data or footage reproduction shall be almost instantaneous*
2. *A daily incident log shall be kept at the Premises and made available on request to an authorised officer of the Council or the Police or the Fire Service which shall record the following:*

- (a) all crimes reported to the venue*
- (b) all ejection of patrons*
- (c) any complaints received*
- (d) any incidents of disorder*
- (e) seizures of drugs or offensive weapons*
- (f) any faults in the CCTV system*
- (g) any refusal of the sale of alcohol*
- (h) any visit by a relevant authority or emergency service.*

*3. The supply of late night refreshment after 23:00hrs shall be by delivery or take away service only.*

*4. All deliveries shall be made to bona fide business and residential addresses only.*

*5. Signs shall be displayed informing customers that the provision of late night refreshment shall be provided by delivery or take away service only after 23:00hrs.*

Following these changes proposed by the police and accepted by the applicant the provision of hot food and drink after 23:00 shall be outdoors only via takeaway/deliveries. Customers shall be allowed to access the premises to purchase hot food and drinks after 23:00, however the consumption of said purchases shall not be permitted inside the premises.

A copy of this amendment and relevant correspondence can be seen on pages 16 to 18 of this report.

## **2. BACKGROUND**

The main access to this premises is located on North End 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 found on pages 19 to 21 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the North End Road area. West Kensington tube station is a minute's walk away and Barons Court tube station is a 7-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 Noise and Nuisance Team objecting to the licence application. A copy of this representation can be seen on page 22 of this report.

The licensing section received three representations from local residents objecting to the licence application. A copy of these representations can be seen on pages 23 to 29 of this report.

## **4. OTHER INFORMATION**

### **4.1 Enforcement History**

On the 14 July 2022, a warning letter was issued in response to a failed test purchase undertaken on the 12 July 2022 ascertaining unauthorised late night refreshment. On the 14 October 2022, a second warning letter was issued in response to a subsequent failed test purchase undertaken on the 16 September 2022 ascertaining unauthorised late night refreshment.

### **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 pages 12 and 13 of the Statement of Licensing Policy (“SLP”) states that in order to ensure the promotion of the four Licensing Objectives the Licensing Authority will require applicants to detail in their operating schedule:

- the steps proposed to promote the licensing objective of the 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;
- the steps proposed to ensure the physical safety of people using the relevant premises or place;
- how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the Licensing Objectives are met. Where there is a relevant representation regarding extended hours, the Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met;
- the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

**5.2** Policy 3 page 21 of the 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:

- 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;
- c) Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- d) 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, anti-social behaviour (ASB), nuisance and vehicle emissions;

e) Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

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.

To act as a guide for new or existing operators we have set out the suggested closing times for licensed premises below:

Type of premises	Town centres	Mixed use areas	Residential areas
<b>Restaurants and cafes</b>	Fri – Sat 01:30	Fri – Sat 01:00	Fri – Sat 23:00
	Mon - Thurs 01:00	Mon - Thurs 00:00	Sun – 22:00
	Sun – 00:00	Sun – 23:00	
<b>Late night refreshment premises (Take-aways)</b>	Fri – Sat 01:00	Fri – Sat 00:30	Not considered Appropriate
	Sun – 00:00	Sun – 23:30	

**5.3** Policy 4 pages 22 and 23 of the SLP states that 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.

In coming to any decision regarding cumulative impact the Licensing Authority will consider other mechanisms outside of the licensing regime which may also be available to address this issue, these include but are not limited to:

- Police and other enforcement of the normal law concerning disorder and anti-social behaviour.
- 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 behaviour is taking place at licensed premises under the Anti-social Behaviour, Crime and Policing Act 2014.
- To ensure that residents are protected from the negative impact of late-night local licensing activities the Licensing Authority may decide to adopt an Area Specific Cumulative Impact Policy in relation to a specific area; where the number, type and density of premises providing licensable activities is having a serious negative impact on the local community and local amenities.

**5.4** Policy 11 page 30 of the SLP states that population densities in this borough are high, with many residential premises located above or in close proximity to licensed premises. This

means that the public nuisance and crime and disorder objectives will be of paramount concern when evaluating Operating Schedules. Licensing Committees will place high regard on the control measures put in place by the applicant to ensure that our residents are protected from the potential detrimental effects of any licensed premises.

**5.5** Annex 1 pages 35 and 36 of the SLP in relation to the prevention of crime and disorder states licence applicants will be expected to demonstrate the following in their operating schedules:

- g) Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.
- h) Crime and disorder in the vicinity of the premises: this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.
- j) CCTV - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment.
- k) dispersal procedures - establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises.
- p) local schemes – joining and attending local Pubwatch meetings and participating in the Behave or Be Banned Scheme (BOBB) and/or signing up and using the Council's Safety Net Radio scheme.

**5.6** Annex 1 pages 38 to 40 of the SLP in relation to the prevention of public nuisance states that the Licensing Authority will particularly consider the following matters where they are material to the individual application:

- ii. The proximity of residential accommodation;
- iii. The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- iv. 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;
- v. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.
- viii. 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;
- ix. The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- x. The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- xi. The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- xii. The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- xiii. The delivery and collection areas and delivery/collection times;

- xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- xviii. The generation of odour, e.g. from the preparation of food;
- xix. Any other relevant activity likely to give rise to nuisance;
- xx. Any representations made by the Police, or other relevant agency or representative;

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:

j) **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 anti-social 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.

k) **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.

l) **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.

m) **Noise and/or vibration** breakout from the provision of regulated entertainment, particularly from (but not limited to) live music – consider what type of entertainment is to be provided, in what room/area of the premises and the suitability of the construction of this room/area to contain sound. Windows are a particular weak-point for noise break-out so consider providing regulated entertainment in a room without windows or with as few windows as possible, particularly windows that face towards nearby 40 residential properties. Where suitable, install a lobby to prevent spillage of noise each time an entrance/exit door is opened.

o) **Odour** – odour from cooking is a common source of complaint, particularly from restaurants and fastfood 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.

p) **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.

q) **Ventilation** – where regulated entertainment is to be provided there may be a requirement to keep doors and/or windows closed during its provision to limit noise breakout, consider therefore the provision of air conditioning for the comfort of your customers if doors and windows have to be closed during the summer. However, also note air conditioning can be the source of noise complaints in itself, so careful consideration also needs to be given to the siting of this equipment.

r) **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.

s) **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 the representations.