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1. THE APPLICATION

On 21 November 2022, Mr Eddris Hashimi (“the applicant”) submitted an application for a new premises licence to be granted in respect of the premises known as Margarita Mama Ltd, 149 North End Road, London, W14 9NH.

1.1 Application Requested

The applicant has applied for a new premises licence for the provision of late-night refreshment both indoors and outdoors, as detailed below:

The provision of late night refreshment - Both Indoors and Outdoors

Mondays to Thursdays	23:00 to 02:00
Fridays to Sundays	23:00 to 03:00

Opening hours of the premises

Mondays to Thursdays	09:00 to 02:00
Fridays to Sundays	09:00 to 03:00

A copy of the application form and the plan can be seen on pages 13-17 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 18 of this report.

On the 11 January 2023, following correspondence from the police, the applicant agreed to amend the hours and agreed conditions to be added to the licence if granted. A copy of this amendment and relevant correspondence can be seen on pages 19-24 of this report, and are as follows:

The provision of late night refreshment - Both Indoors and Outdoors

Sundays to Thursdays	23:00 to 02:00
Fridays and Saturdays	23:00 to 03:00

Opening hours of the premises

Sundays to Thursdays	09:00 to 02:00
Fridays and Saturdays	09:00 to 03:00

Agreed conditions:

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. After 00:00 Sunday- Thursday inclusive, no customers shall be permitted on the premises and all sales will be by delivery only to a bona fide address.

3. After 01:00 on a Friday and Saturday, no customers shall be permitted on the premises and all sales will be by delivery only to a bona fide address.

4. Notices shall be prominently displayed at all exits used by delivery drivers requesting them to respect the needs of local residents and leave the area quietly.

5. After 23:00, drivers shall wait inside the premises between deliveries/for deliveries.

6. A notice shall be displayed by the front door stating the restaurant opening hours and that all orders after 00:00hrs Sunday - Thursday and 01:00 on a Friday and Saturday must be phoned through or made via a website/app and are for home delivery only.

7. Delivery drivers/riders will be given clear, written instructions to use their vehicles in a responsible manner so as to not cause nuisance to any residents or generally outside the licensed premises; not to leave engines running when the vehicle is parked; and not to obstruct the highway. The licence holder will positively encourage delivery drivers/riders to use quieter vehicles that are less likely to cause a nuisance such as bicycles.

On the 18th January 2023 the Licensing Team contacted the applicant in relation to the agreement with the police, in alignment with conditions 2 and 3 above, the hours for Late Night Refreshment would be as follows:

The provision of late-night refreshment - Indoors

Sundays to Thursdays	23:00 to 00:00
Fridays and Saturdays	23:00 to 01:00

The provision of late-night refreshment - Outdoors

Sundays to Thursdays	23:00 to 02:00
Fridays and Saturdays	23:00 to 03:00

Opening hours of the premises

Sundays to Thursdays	09:00 to 00:00
Fridays and Saturdays	09:00 to 01:00

A copy of the relevant correspondence can be seen on pages 25-31 of the report.

2. BACKGROUND

Based on the application the premises is a takeaway situated on the high street on North End Road, opposite Gunterstone Road.

The main access to the premises will be located on North End Road. There is a mixture of both residential and commercial premises within the area (75m buffer zone). A map showing the location of the premises and neighbouring licensed premises can be seen on pages 32-33 of this report.

There are several options for transport away from the area including buses and taxis that run along North End Road. West Kensington tube station is a two minute walk away and Barons Court tube station is a seven 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 objection from Adrian Overton on behalf of the Licensing Authority, a copy of the representation can be seen on page 34 of this report.

The licensing section received one objection from James Rawlinson on behalf of the Noise & Nuisance team, a copy of the representation can be seen on page 35- 37of this report.

The licensing section received two representations from local residents objecting to the licence application. A copy of these representations can be seen on pages 38-56 of this report.

4. OTHER INFORMATION

4.1 Enforcement History

There have been 3 warning letters given in respect of the premises during the past three years. These have been detailed below:

On the 14 April 2021, a warning letter was issued following unauthorised late night refreshment observed by the Noise and Nuisance team on the 20 March 2021.

On the 17 October 2022, a warning letter was issued following unauthorised late night refreshment substantiated by the Noise and nuisance team on the 15 October 2022.

On the 24 October 2022, a warning letter was issued following unauthorised late night refreshment substantiated by the Noise and nuisance team on the 24 October 2022.

There are no other instances recorded in the last three years.

4.2 Temporary Event Notices (“TENs”)

There have been three TENs have been submitted in respect of this premises in the past twelve months. The details can be seen in the below table:

REFVAL	DETAILS	Start Date	End Date
2022/01865/LATEML	Late Temporary Event Notice, Late night takeaway and customer services Provision of Late Night Refreshment on Wednesday 16 November 2022 to Tuesday 22 November 2022 23:00 to 02:00 each day, for no more than 10 people	16/11/2022	22/11/2022
2022/01977/LATEML	Late Temporary Event Notice, Margartita Mama's Ltd: The applicant proposes a TEN to cover late night refreshment at his takeaway. Licensable activities sought: The Provision of Late Night Refreshment for no more than 10 people. Days and times sought: Wednesday 30th November 2022 to Tuesday 6th December 2022 between the hours of 23:00 to 02:00 each day.	30/11/2022	06/12/2022
2022/01990/LATEMP	Temporary Event Notice, Margartita Mama's Ltd: The applicant proposes a TEN to cover late night refreshment at his takeaway. Licensable activities sought: The Provision of Late Night Refreshment for no more than 10 people. Days and times sought: Wednesday 7th December 2022, Thursday 8th December 2022, Monday 12th December 2022, Tuesday 13th December 2022 between the hours of 23:00 to 02:00 each day. Friday 9th December to Sunday 11th December between the hours of 23:00 to 03:00 each day.	07/12/2022	13/12/2022

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:

- 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, anti-social behaviour (ASB), nuisance and vehicle emissions;
- Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

Policy 3 page 2 of the SLP also states that 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
Late night refreshment premises (Takeaways)	Fri – Sat 01:00 Sun – 00:00	Fri – Sat 00:30 Sun – 23:30	Not considered Appropriate

5.3 Policy 4 pages 22 and 23 of the SLP in relation to cumulative impact the Licensing Authority will consider the balance between welcoming and supporting new businesses in the borough, with our responsibility to identify where an area is receiving a lot of complaints about existing licensing activity.

The Licensing Authority 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.

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:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)
- Police and other enforcement of the normal law concerning disorder and anti-social behaviour.
- Prosecution or other enforcement 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 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 Policy 14 page 32 of the SLP states that the Licensing Authority expects licence applications for delivery services, which include late night refreshment after 11pm or the delivery of alcohol, to consider how to reduce public nuisance related to delivery vehicles, ensure the security of premises and delivery drivers and to protect children.

The Licensing Authority is likely to place the following conditions on to a premises licence for delivery services where it is appropriate and relevant to the individual licence application:

- A signature at the point of delivery must be obtained. No delivery shall be left without a signature
- A refusals log will be maintained for deliveries.
- Appropriate security will be in place at the premises as agreed with Police.
- Measures for minimising noise and disturbance and anti-social behaviour (ASB) caused by the dispatch of deliveries to be identified in the operating schedule. In particular applicants are expected to consider the use of electric vehicles to minimise air pollution and noise. The Licensing Authority expects that applicants will make arrangements for all deliveries after 8 pm to be made using electric vehicles or non motorised vehicles i.e. bicycles. 33
- A requirement for a specific delivery collection area to be made clear to any third party delivery service. This area may not be directly outside the licensed premises to take account of any residential accommodation close by or obstructing the pavement/highways.

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.

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:

- 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;
- xiv. The siting of external lighting, including security lighting that is installed inappropriately;
- xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);

- xvi. The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licence holder;
- 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

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.

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 any representation(s).