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## **1. THE APPLICATION**

On 20<sup>th</sup> February 2023 Matthew Phipps of TLT Solicitors submitted an application on behalf of Yummy Pubs Limited (“the applicant”) for a new premises licence to be granted in respect of the premises known as the 206-208 Hammersmith Road, London, W6 7DH

### **1.1 Application Requested**

The applicant has applied for a new premises licence for the sale of alcohol both on and off the premises and late night refreshment indoors as detailed below:

#### **Licensable activities sought**

##### The Sale of Alcohol - Both On and Off the Premises

Mondays to Sundays between the hours of 10:00 to 00:00

##### Provision of Late Night Refreshment - Indoors Only

Mondays to Sundays between the hours of 23:00 to 00:00

Non Standard Timings: From the end of permitted hours on New Year’s Eve until 02.00 hours on New Year’s Day.

##### Opening Hours of the Premises

Mondays to Sundays between the hours of 08:00 to 00:30

A copy of the application form, plan and business proposal can be seen on pages 14-54 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 the proposed conditions can be seen on page 17-18 of this report.

On 7<sup>th</sup> March 2023, following correspondence received from the Police, the applicant agreed to add one further condition to the licence, if granted. A copy of this correspondence can be seen on pages 54-56 of this report.

## **2. BACKGROUND**

The premises proposes to operate as bar/ restaurant. The main access to the premises is located on Hammersmith 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 57-61 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Hammersmith Broadway area. Hammersmith tube

stations are a 2-minute walk away, Ravenscourt Park and Barons Court tube stations are 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 1 representation from Sacred Heart School, objecting to the licence application. A copy of this representation can be seen on pages 62-64 of this report.

### **4. OTHER INFORMATION**

#### **4.1 Enforcement History**

There have not been any warnings, simple cautions or prosecutions given in respect of the premises during the past three years.

#### **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 1 page 18 of the SLP states that applicant are to undertake a local risk assessment as part of the licence application. The Secretary of State’s Guidance states that applicants are expected to obtain sufficient information to enable them to

demonstrate, the steps they propose to take to promote the licensing objectives; and that they understand the layout of the local area and physical environment including:

- a) crime and disorder hotspots;
- b) proximity to residential premises;
- c) proximity to areas where children may congregate;
- d) any risk posed to the local area by the applicants' proposed licensable activities; and
- e) participation in any local initiatives (for example, local crime reduction initiatives or voluntary schemes, such as 'Ask for Angela', local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

Applicants are expected to include positive proposals in their application on how they will manage any potential risks.

The Guidance goes on to state that 'Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

**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
Restaurants and cafes	Fri – Sat 01:30 Mon - Thurs 01:00 Sun – 00:00	Fri – Sat 01:00 Mon - Thurs 00:00 Sun – 23:00	Fri – Sat 23:00 Sun – 22:00
Public houses, bars, or other drinking establishments	Fri – Sat 02:30 Mon - Thurs 01:00 Sun – 00:00	Fri – Sat 01:00 Mon - Thurs 00:00 Sun – 23:00	Fri – Sat 23:00 Sun – 22:00

**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:

- 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.
- 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 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by people once they are away from the licensed premises and, therefore, beyond the direct control of the licensee. However, licensing is a key aspect of such control and licensing law is part of a holistic approach to the management of the night time economy.

As a matter of policy the council expects every holder of a licence, certificate or permission, to accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by

taking appropriate measures and action consistent with that responsibility. Licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking area, to the extent that these matters are within their control.

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 15 page 33 of the SLP in relation to drink spiking issues states that licensees and licence applicants are encouraged to establish a clear approach to preventing, identifying and addressing drink spiking in their operating schedules. This should include, but is not limited to:

- Training for door and bar staff to identify where drink spiking may be taking place, how to respond to any reported or observed instances of drink spiking, and how to report to Police.
- Offering drink spiking preventative measures, such as drink covers, serving drinks direct to customers (not leaving these unattended before being provided to customers), and keeping an eye on or clearing drinks left unattended.
- Providing customers with information on keeping safe from drink spiking.
- Operating schemes such as 'Ask for Angela' to encourage customers to seek help if they suspect drink spiking has occurred.
- Requiring the production of a drink spiking risk assessment and procedure for dealing with any such incidents.
- Displaying posters in visible locations at the premises to explain what to do in the event of a spiking incident / what a spiked drink looks like.

**5.6** Policy 16 pages 33 and 34 of the SLP in relation to the safety of women and girls in licensed settings states the Licensing Authority will use its powers to regulate the night-time economy, both with specific regard to spiking incidents and more generally in relation to violence against women and girls. This may include:

- a) Using the Licensing Authority's powers to impose conditions or revoke premises licenses, where venues do not take sufficient measures to protect and provide support to customers in spiking incidents;
- b) Considering the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in licensed premises.
- c) Requiring the presence of suitably trained and accredited door staff,
- d) Require presence of CCTV, or to introduce entry searches for example.

Licence applicants and existing licence holders are encouraged to include in their operating schedules clear policies relating to potential abuse or violence against women and girls.

This would include, but is not limited to the 'Ask for Angela' programme, Welfare and Vulnerability Engagement' training package (WAVE) for staff to identify and assist women and girls being at risk or being subjected to violence, and the implementation

of clear policies in the premises on preventing and addressing violence against women and girls

**5.7** 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:

- a) Measures to control excessive consumption and intoxication.
- b) Consideration of any additional measures or restrictions that may be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.
- e) Measures to demonstrate compliance Home Office guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the Licensing Authority and the police on the handling of illegal drugs found on their premises.
- 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.
- l) **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- m) **door staff** - considering whether the premises employs a sufficient number of SIA registered door staff, whether Door Premises Supervisors check the legitimacy of the badges and whether SIA staff display their badges prominently. (Note: All door supervisors must be Security Industry Authority (SIA) registered).
- n) **drugs and weapons** - ensuring compliance with relevant guidance regarding illegal drugs and weapons. Attention should be paid to search procedures, procedures for the safe storage and surrender of seized drugs and weapons and drug awareness issues, designing out the ability to take drugs in the premises, etc.
- o) **excessive drinking** - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
- 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.

**5.8** Annex 1 pages 37 to 38 of the SLP in relation to public safety states that the Licensing Authority will require the applicant to demonstrate the steps proposed to ensure the physical safety of people using the relevant premises or place. This does not cover the separate need for applicants to provide relevant public safety requirements dealt with by Environmental Health. This is expected to include:

- a) Maximum occupancy limits will be specified on the licence only where necessary for the promotion of public safety or the prevention of disorder. Where a capacity limit is already specified in a fire risk assessment, the Licensing Authority will not normally include that limit as a licence condition.
- c) The Licensing Authority will, where appropriate, attach conditions to a licence to ensure public safety, dealing with, but not limited to, the following:
  - i. Checks on equipment at specified intervals, e.g. gas safety checks;
  - ii. Standards to be maintained, e.g. temporary electrical installations to comply with British Standards;
  - iii. 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;
  - iv. 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;
  - v. The use of door supervisors to manage the entrance and exit from the premises and to protect public safety as customers leave the premises;
  - vi. The provision of air conditioning and ventilation;
  - vii. Measures to protect against overcrowding; and
  - viii. Implement access/support needs for disabled people

The following provides a non-exhaustive list of risks associated with the public safety objective that applicants may want to consider when preparing their Operating Schedule:

- e) **incident and occurrence book** – keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.
- g) **getting home safely** - providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night - including night buses, licensed taxis and private hire (mini-cabs).
- h) **overcrowding** - developing policies and procedures regarding capacity to prevent overcrowding and patrons possibly becoming aggressive.
- i) **premises environment** - applicants should consider the physical environment of the premises and have regard to issues that could increase the likelihood of patrons becoming agitated or aggressive. This may include procedures regarding door supervision, identification and management of drunken customers and issues of overcrowding and capacity, which may result in patrons becoming aggressive or rowdy.

**5.9** 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:

- i. 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.
- 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;
  - xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
  - xix. Any other relevant activity likely to give rise to nuisance;
  - 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.

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 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.

5.10 Annex 1 pages 40 to 41 of the SLP in relation to the protection of children from harm states that the Licensing Authority will require operating plans to specify 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. This is expected to include:

a) The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The Licensing Authority will not normally seek to limit their access (above that specified in the Act) to any premises unless it is necessary for the prevention of physical, moral or psychological harm, or where there are concerns about child sexual exploitation. Where this is considered likely, upon consideration of a relevant representation, conditions will be imposed that restrict children from entering all or part of licensed premises: i. At certain times of the day; ii. When certain licensable activities are taking place; iii. Under certain ages, e.g. 16 or 18; iv. Unless accompanied by an adult.

b) The Licensing Authority will particularly consider whether:

- i. There is entertainment or services of an adult nature commonly provided;
- ii. There have been convictions, Penalty Notices for Disorder (PND) or cautions for serving alcohol to minors or premises with a reputation for under-age drinking;
- iii. There is a known association with drug taking or dealing;
- iv. There is a significant element of gambling on the premises;
- v. There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
- vi. There are licensable activities that are likely to appeal to minors/children under 16 taking place during times when children under 16 may be expected to be attending compulsory full-time education;
- vii. There have been representations from police, the Local Safeguarding Children Board, Trading
- viii. Standards or other relevant agency or representative.
- ix. There are measures/training for staff on how to deal with suspected truanting school children on the premises and how to recognize signs of potential child sexual exploitation.

c) The sale of alcohol to a minor is a criminal offence and Trading Standards officers will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence. The Act permits the use of children under the age of 18 to undertake test purchases when they have been directed to do so by a duly authorised officer.

g) The Licensing Authority will expect operating plans to specify the measures and management controls in place to prevent alcohol being served to children, other than in those limited circumstances permitted by the Act. The Council's Trading Standards officers have a role to play in the protection of children from harm, and proof of age schemes, and are able to provide advice in relation to measures that can be taken to help prevent the sale of alcohol to underage children. Potential licence holders should also be aware of the Proof of Age London (PAL) Scheme hosted by Southwark Council.

## **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.