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1. REVIEW APPLICATION

On 20 June 2023, an application for a review of a premises licence under section 51 of the Licensing Act 2003 was served by Mr Lenny Johnson on behalf of the Central London Immigration Compliance & Enforcement (ICE) Team. The review application is in respect of the premises known as Woody Grill, 1-3 Uxbridge Road, London, W12 8LJ. At the time the application was received, Mr Cengiz Erpolat was the licence holder.

The application for a review of the premises licence was made on the grounds of prevention of crime and disorder and public safety, following three visits conducted by the Central London ICE Team. On each occasion employees were found to be working illegally without the right to work in the United Kingdom.

Mr Johnson, on behalf of the Central London ICE Team, details in the review that there were serious failures to comply with right to work checks. Following intelligence received that Woody Grill was employing illegal workers, the Central London ICE Team have now conducted three illegal working enforcement visits between March 2022 and May 2023 and each time arrests of illegal workers have been made. A timeline of these visits has been detailed in the review application, which can be seen on pages 18 and 19 of this report.

The Central London ICE Team state that the premises appears to be operating with a complete disregard of the law and licensing objectives and the current operation of the premises is not in compliance with its Licensing Conditions. The Central London ICE Team have tried to offer advice to Woody Grill on each occasion, and they have been fined in an attempt to drive compliance however, they continue to re-offend. On the 19 May 2022 at 23:34, during a third visit conducted by the Central London ICE Team with Licensing present at the premises, there were identified breaches of Immigration Offences and a breach of licensing conditions. The full details of the Licensing inspection can be seen in section 5.1 of this report on pages 6 and 7.

Due to the serious and repetitive nature of these incidents, Mr Johnson requests that the Licensing Sub-Committee considers revoking the licence.

A copy of the review application and supporting documentation can be seen on pages 15-22 of this report.

2. CURRENT LICENCE

The premises have traded under a premises licence which permits the following licensable activities:

Late Night Refreshment -Both Indoors and Outdoors

Monday – Sunday 23:00 - 05:00

Hours premises open to the public

Monday – Sunday 10:00 - 05:00

A copy of the current premises licence can be seen on pages 23-29 of this report.

3. BACKGROUND

There has been a premises licence in place at this address since 15th January 2010. This licence was applied for by Mr Cengiz Erpolat in December 2009, and he has remained the licence holder since.

On 14 June 2022 an application for a Minor Variation was submitted by Mrs Aysen Ipek Kilic of NARTS (“the agent”) on behalf of Mr Cengiz Erpolat (“the applicant”) to remove 2 conditions, and to add a further 7 conditions to the licence. This application with reference number 2022/00952/LAPR was granted on 29 June 2022. A copy of the current licence can be seen on pages 23-29 of this report.

The main access to the premises is located on 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 30-32 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 and Shepherd’s Bush Green area. Shepherds Bush Market tube station is a 1-minute walk away, Shepherds Bush overground, and tube station are a 7-minute walk away and Goldhawk Road tube station a 6-minute walk from the premises.

4. CONSULTATION

A public notice was displayed by the Council at and near the premises. A further public notice was displayed by the Council at the Council Offices on King Street Hammersmith. Details of the application were also published on the LBHF Website and sent to the local Ward Councillors.

A notice of review was served on the premises licence holder and all the statutory responsible authorities as required by regulation.

4.1 Relevant Representations

The licensing section received one representation from the Licensing Authority in support of the review application. A copy of this representation can be seen on pages 33-36 of this report.

The licensing section received one representation from the Police Licencing Team in support of the review application. A copy of this representation can be seen on pages 37-38 of this report.

The licensing section received 9 representations from local residents supporting the review application. A copy of these representations can be seen on pages 39-51 of this report.

5. OTHER INFORMATION

5.1 Enforcement History

On the 19 May 2022 at 23:34, during a third visit conducted by Immigration Enforcement with Licensing present at the premises, there were identified breaches of Immigration Offences and a breach of licensing conditions. Entry was gained by means of a warrant and conducted during licensable hours. Two immigration offenders were found working illegally on the premises. The premises was issued with another illegal working referral notice for a civil penalty.

A licensing inspection was conducted during this visit which identified the following breaches:

- *3. No person shall be allowed to work at the Premises unless they have and are able to demonstrate the right to work in the United Kingdom.*
- *4. Right to work checks shall be carried out by or on behalf of the licensee on all persons that are carrying out work within the Premises, whether paid or otherwise, temporary or permanent, before those persons commence work. The documentation for each employee shall include: date stamped colour copies of all documents produced, the name of the person who has checked the original documents and confirmation that the said person has seen the original documents, any enquiries made and a right to work checklist with the relevant box (es) ticked. This information shall be retained in each case (whether they have carried out or are still carrying out work within the Premises) for a minimum of 3 years. Such copies shall be kept on the Premises and made available for inspection by police, licensing or immigration officers on request.*
- *5. Right to work audits of all persons working at the Premises shall be carried out once a year, with records of the said audits to be retained for a period of at least 3 years. Records of said audits shall be kept at the premises and made available for inspection by police, licensing or immigration officers on request.*
- *2. Appropriate signage shall be displayed in prominent positions, informing customers they are being recorded on CCTV.*
- *1. High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities or customers are on the premises 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 the Police or authorised Council officers on request.*

- at least one camera will show a close-up of the entrance/entrances 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 the 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.
- 7. A written contemporaneous record shall be maintained on the Premises, detailing the hours worked by all persons (paid or unpaid). Such record shall as a minimum cover the previous 8 working weeks. Said records shall be kept at the premises and made available for inspection by police, licensing or immigration officers on request.

The inspection sheet of the above breaches was left with the manager as a warning letter.

5.2 Temporary Event Notices

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

6. POLICY CONSIDERATIONS

- 6.1. It is the Council's duty under the Licensing Act 2003 to determine the review 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.
- 6.2 In reaching a decision the Council must have regard to the Council's adopted Statement of Licensing Policy ("SLP") and the guidance issued by the Secretary of State under section 182 Licensing Act 2003.
- 6.3 The revised guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 ("the Guidance") contains advice in paragraphs 11.16 to 11.28 in relation to the review of a premises licence. Paragraphs 11.16 to 11.28 of the revised guidance can be seen on pages 52-56 of this report.
- 6.4 The Council's own SLP gives guidance concerning the review of a premises licence.
- 6.5 In section 9 page 17 of the SLP in relation to responsibilities under the Immigration Act 2016 and the Modern Slavery Act 2015 which states that licence holders have responsibilities under the Immigration Act 2016 and the Modern Slavery Act 2015. The Authority has responsibilities that relate to the prevention of immigration crime,

specifically the prevention of illegal working in licensed premises. The London Borough of Hammersmith & Fulham has a duty under the Modern Slavery Act 2015 to co-operate with the Independent Anti-Slavery Commissioner, and the Authority is also under this duty as part of the London Borough of Hammersmith & Fulham see [Tackling modern slavery | LBHF](#) for more information.

6.6 Policy 3 pages 20 and 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
Late night refreshment premises (Take-aways)	Fri – Sat 01:00 Sun – 00:00	Fri – Sat 00:30 Sun – 23:30	Not considered Appropriate

6.6 Policy 9 pages 27 and 28 of the SLP states that the Licensing Authority operates a reactive and proactive inspection regime that is based on risk and specific incidents. Our Enforcement Policy explains how officers will take a graduated response to premises breaking the law, as we apply the principles of: Engage, Explain, Encourage, Enforce.

Premises that produce disorder, threaten public safety, generate public nuisance or threaten the wellbeing of our children, women or vulnerable people will be targeted for enforcement action.

The Licensing Authority will take enforcement action in accordance with our Enforcement Policy and relevant statutory powers.

The Licensing Authority will use a range of sanctions such as letters of warning, simple cautions, Fixed Penalty Notices (FPNs), closure notices and legal proceedings.

The Licensing Authority will seek to work with the police and other responsible authorities in enforcing licensing legislation and will strive to have a joint enforcement protocol with all the relevant agencies. Where the law allows, the Licensing Authority will agree secure mechanisms to share information with other regulators about licensed premises, to help target resources and activities and minimise duplication.

- 6.7 Policy 10 page 28 of the SLP in relation to reviews states that the Act describes two “groups” that may make representations to applications and may apply for an existing premises licence or club premises certificate to be reviewed by the Licensing Authority. These groups are Responsible Authorities and “Other Persons”.

At any stage, following the grant of a premises licence, a Responsible Authority, such as the police or the fire authority, or other persons, may apply for a licence to be reviewed because of a matter arising at the premises in connection with any of the four Licensing Objectives.

A licence may be reviewed where it is alleged that the Licensing Objectives are not being promoted and there is evidence to show this. Guidance on grounds for a review are outlined in Annex 5.

At a hearing held to determine an application for a review of a licence the sub-committee may:

- a) Modify the conditions of the premises licence;
- b) Exclude a licensable activity from the scope of the licence;
- c) Remove the designated premises supervisor;
- d) Suspend the licence for up to three months;
- e) Revoke the licence.
- f) Take no further action.

- 6.8 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.

6.9 Annex 1 pages 35 to 36 of the SLP in relation to crime and disorder states 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 following provides a non-exhaustive list of risks associated with the crime and disorder objective that applicants may want to consider when preparing their Operating Schedule:

- 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.
- i) alternative to glass bottles and glasses - restricting the use of glass bottles and beer glasses to customers in preference for containers made from polycarbonate materials.
- 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.
- 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.
- q) prevention of theft - using bag hooks and signage to warn customers of pickpockets and bag snatchers.

Applicants are advised to consider the following two paragraphs from the March 2015 edition of the Secretary of State's Guidance to Licensing Authorities:

'11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- i. for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;

- ii. for the sale and distribution of illegal firearms;
- iii. for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- iv. for prostitution or the sale of unlawful pornography;
- v. by organised groups of paedophiles to groom children;
- vi. as the base for the organisation of criminal activity, particularly by gangs; for the organisation of racist activity or the promotion of racist attacks;
- vii. for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- viii. for unlawful gambling; and
- ix. for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.'

6.10 Annex 1 page 38 to 39 of the SLP in relation to the prevention of public nuisance states that the Licensing Authority will require the applicant to demonstrate within the operating plan 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.

This is expected to include:

- a) In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance and anti-social behaviour and any Public Spaces Protection Orders (PSPOs) in place.
- b) 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.
 - vi. Limiting the number of people permitted to use a garden or other open-air areas, including those for the use of smoking, at any one time.
 - vii. Restricting the use of a garden or 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).

- 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;
- xvii. The history of the applicant in controlling anti-social behaviour and preventing 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.

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 residential properties. Where suitable, install a lobby to prevent spillage of noise each time an entrance/exit door is opened.

n) **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.

o) **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.

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

6.11 Annex 4 page 52 of the SLP in relation to the grounds for considering a review state that the Licensing Authority will regard applications for the review of any premises licence particularly seriously where they involve evidence of:

a) Use of licensed premises for the sale and distribution of drugs and the laundering of drugs money;

b) Use of licensed premises for the sale and distribution of illegal firearms and the laundering of illegal firearms money;

c) Evasion of copyright in respect of pirated or unlicensed films and music;

d) Underage sales and consumption of alcohol;

e) Use of a licensed premises contrary to any emergency legislation requesting its closure;

f) Use of licensed premises for prostitution or the sale of unlawful pornography;

g) Serious risks to children;

h) Use of licensed premises for unlawful gaming and gambling;

i) Use of licensed premises as a base for organised criminal activity;

j) Use of licensed premises for the organisation of racist, homophobic, sexual abuse, attacks or any discriminatory behaviour;

k) Use of licensed premises for storing or selling illegal alcohol or tobacco or smuggled goods;

l) The use of licensed premises for the sale of stolen goods;

- m) Incidents of disorder;
- n) Instances of public nuisance where warnings have been disregarded;
- o) Serious risks to public safety which the management is unable or unwilling to correct;
- p) Frequently operating outside permitted hours.
- q) There may be legal implications if activity of child sexual exploitation (CSE) is taking place on licensed premises and there has been a failure to demonstrate due diligence or that adequate safeguards are in place – this may lead to prosecution or any of the licensing sanctions detailed in the paragraph below.

7. THE REVIEW HEARING

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) Take no further action.
- (b) Modify the conditions of the licence.
- (c) Exclude a licensable activity from the scope of the licence.
- (d) Remove the Designated Premises Supervisor.
- (e) Suspend the licence for a period not exceeding three months.
- (f) Revoke the licence.

Where the Committee takes a step mentioned in (b) or (c) above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

In making its decision, the Committee must act with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- the prevention of public nuisance
- public safety
- protection of children from harm

It must also have regard to its own SLP and the Guidance.

If the Committee is minded to amend the licence, conditions may be attached to the licence to alleviate the concerns raised through representations; nevertheless, this is a matter for the Committee to determine in light of the above matters, and any others it considers material.