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## **APPENDICES**

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## 1. THE APPLICATION

On the 15<sup>th</sup> April 2024, Mr Emrullah Sonmez submitted an application on behalf of Mr Omar Said (“the applicant”) for a new premises licence in respect of the premises known as Revive Cafe, 290-294 Uxbridge Road, London, W12 7LJ.

### 1.1 Application Requested

The applicant proposes to operate as a cafe/restaurant and has applied for late-night refreshment to cover the sale and provision of hot food and hot drink as outlined below:

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

Mondays to Saturdays	23:00 - 03:00
Sundays	23:00 - 01:00

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

Mondays to Saturdays	07:00 - 03:00
Sundays	07:00 - 01:00

A copy of the application form and plan can be seen on pages **68-74** of this report.

### 1.2 Applicants Operating Schedule

The applicant has proposed several steps to promote the four licensing objectives. The steps proposed can be seen on pages **71-72** of this report.

On the 09<sup>th</sup> May 2024, following correspondence with the Environmental Public Protection team, the applicant agreed to amend the hours applied for, and add one further condition to licence if it is granted as follows:

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

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

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

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

1. The commercial kitchen extract system shall not be used between 23:00hrs and 05:00hrs

A copy of the relevant correspondence and conditions can be seen on pages **75-77** of this report.

## 2. BACKGROUND

The main access to the premises is located on Uxbridge Road at the corner with Loftus Road. There is a mixture of both commercial and residential premises within

the Uxbridge Road area. A map showing the location of the premises and neighbouring licensed premises can be seen on pages **78-80** 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 area. Shepherds Bush Market tube station is a 5-minute walk away and Shepherds Bush, Goldhawk Road and Wood Lane tube stations are a 12-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 objecting to the licence application from the Licensing Authority. A copy of this representation can be seen on pages **81** of this report.

The licensing section received two representations objecting to the licence application from the Metropolitan Police. One from PC Nicole Sondh, Police Licensing team and one from PC Kerry Tanner, Safer Neighbourhood team. A copy of these representations can be seen on pages **82-85** of this report.

The licensing section received one representation objecting to the licence application from the Community Safety Officer. A copy of this representation can be seen on pages **86-87** of this report.

The licensing section received seven representations objecting to the licence application from local residents. A copy of these representations can be seen on pages **88-89** of this report.

The licensing received comments from the Planning team. A copy of these comments can be seen on page **100** of the report.

On the 12<sup>th</sup> June 2024, the Licensing Team sent an email to all objectors informing of the amendments mentioned in section 1.2 of this report. A copy of the correspondence and responses can be seen on pages **101-106** 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”)**

There have been two late TENs in the last twelve months:

LICNTYPE	CPTRADEAS	LISTAT	REFVAL	DETAILS	Start Date	End Date
LATEML	REVISE CAFE	5_ISS	2024/004 88/LATE ML	Late Temporary Event Notice, To serve hot food and hot drink to people during Ramadan. Use of the interior seating area of the cafe/restaurant. Provision of Late Night Refreshment on Saturday 30 March 2024 to Thursday 04 April 23:00 to 03:00 each day and Friday 05 April 2024 from 23:00 to 00:00, for no more than 35 people	30/03/2024	05/04/2024
LATEML	REVISE CAFE	5_ISS	2024/005 51/LATE ML	Late Temporary Event Notice for no more than 35 people.  Event: Ramadan  Licensable activity sought: Provision of Late Night Refreshment Tuesday 09 April from 2024 00:00 to 03:00 Wednesday 10 April from 2024 23:00 to 03:00 Thursday 11 April 2024 from 23:00 to 03:00 Friday 12 April 2024 from 23:00 to 03:00	09/04/2024	12/04/2024

## 5. POLICY CONSIDERATIONS

**5.1** Section 2 pages 7-8 of the Statement of Licensing Policy (“SLP”) states the Licensing Authority is keen to support the licensed sector and leisure offer within the borough, with a particular focus on business resilience and growing a robust and thriving cultural and leisure sector.

To achieve this the Licensing Authority has identified three key themes of the Licensing Policy and the Licensing Authority’s approach to implementing it. These are:

- A sustainable, well-run licensed sector;
- Hammersmith & Fulham as a good place to live, work and enjoy leisure; and,
- A safe licensing environment and night-time economy.

**5.2** Section 5 pages 12 and 13 of the 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.

**5.3** Section 10 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.

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:

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

**5.4** Section 10 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.
- 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.

**5.5** Section 10 policy 11 pages 29 and 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 nighttime 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.

**5.6** Section 10 policy 13 page 31 and 32 states that despite Licensing and Planning being under different legislation, the Licensing Authority will ensure that the

licensing regime is in line with the planning regime in Hammersmith & Fulham as far as is possible.

The local planning authority has powers to control opening times of all new establishments seeking planning permission, where harm might occur.

Licensing applications will not be a re-run of the planning application. If the licensing committee grants any variation of a licence which involves a material alteration to a building, the applicant still needs to apply for planning permission, or building regulation control, where appropriate.

Where an applicant is granted a premises licence with operating hours that are different to the hours permitted by the premises planning permission, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. We would suggest that the applicant contacts Planning apply to vary their conditions.

The Licensing Authority may refuse to grant a licence if a representation from the Planning Department has been received AND ONE or more of the licensing objectives would not be promoted.

**5.7** Section 10 policy 16 page 33 and 34 states that the Licensing Authority expects licence applications to specifically include measures to ensure the safety of women and girls in licensed premises.

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.

**5.8** 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:

- 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.

- f) Robust measures in place to avoid the presence of weapons on their premises and should agree a protocol with the Licensing Authority and the police on the handling of weapons 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.
- 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.
- 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.

**5.9** Annex 1 pages 37 and 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 is expected to include:

- c) The Licensing Authority will, where appropriate, attach conditions to a licence to ensure public safety, dealing with, but not limited to. the following:
  - 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.

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).

**5.10** Annex 1 pages 38 to 40 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) 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;
- 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:

o) Odour – odour from cooking is a common source of complaint, particularly from restaurants and fast[1]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

**5.11** Annex 1 page 40 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.

## **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