

<u>Contents</u>	<u>Page</u>
1. THE APPLICATION	99
1.1. Current hours of Operation	99
1.2. Application Requested	99
1.3. Applicants Operating Schedule	99-100
2. BACKGROUND	100
3. CONSULTATION	100
3.1 Relevant Representations	100
4. OTHER INFORMATION	100
4.1 Enforcement History	100
4.2 Temporary Event Notices (“TENs”)	100
5. POLICY CONSIDERATIONS	101-108
6. DETERMINATION	108-109

APPENDICES

Copy of current licence and plan	110-117
Copy of application form	118-136
Copy of amended hours agreement	137-139
Map showing location of premises and neighbouring premises	140
Copy of objections from local residents	141-142
Copy of correspondence with objectors	143-144

1. THE APPLICATION

On 14th August 2024, the Licensing Authority received a valid application for a variation to the premises licence in respect of the premises known as 106 Goldhawk Road, London, W12 8HD submitted by Mr Yoonus Urathodi ('the applicant').

1.1 Current Hours of Operation

The premises currently benefit from a premises licence which permits the following:

The Sale of Alcohol - Off the Premises Only

Mondays to Saturdays 08:00 to 23:00

Sundays 10:00 to 22:30

Non-Standard Timings and Seasonal Variations: See Annex 2.

A copy of the current premises licence and plan can be seen on pages **110-117** this report.

1.2 Application Requested

The applicant has applied to remove the sale of alcohol off the premises only, and to add late night refreshment both indoors and outdoors to the licence as follows:

The Provision of Late-Night Refreshment - Both Indoors and Outdoors

Mondays to Sundays 23:00 to 03:00

Proposed Opening Hours:

Mondays to Sundays 11:00 to 03:00

A copy of the application form can be seen on pages **118-136** of this report.

1.3 Applicants Operating Schedule

The applicant has proposed additional steps in their operating schedule to promote the four licensing objectives if the application is granted. A copy of these can be seen on pages **133** of this report.

On the 14th August 2024, the Planning team informed the Licensing team of the hours the premises are currently authorised to be open to members of the public. On the 15th August 2024, following correspondence with the Licensing Team, the applicant agreed to amend the hours applied for, to align with the current planning permission at the premises as follows:

The Provision of Late-Night Refreshment - Both Indoors and Outdoors

Sundays to Thursdays 23:00 to 00:00

Fridays and Saturdays 23:00 to 01:00

Proposed Opening Hours:

Sundays to Thursdays 11:00 to 00:00

Fridays and Saturdays

11:00 to 01:00

A copy of the agreement and relevant correspondence can be seen on pages **137-139** of this report.

2. BACKGROUND

The main access to the premise's is located on Goldhawk Road and at the junction with Titmus 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 **140** of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Goldhawk Road area. Goldhawk Road tube station is a 4-minute walk away, Shepherd's Bush Market tube station is a 7-minute walk away and Shepherd's Bush tube station is 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 two representations in total objecting to the variation application from local residents. A copy of these representations can be seen on pages **141-142** of this report.

On the 15th August 2024, the Licensing Team emailed the objectors with further informing them of the amendments to the hours in section 1.3 of the report. A copy of the correspondence and response can be seen on pages **143-144** of this report.

4. OTHER INFORMATION

4.1 Enforcement History

On 4th March 2024 a warning letter was issued following admission by the premises licence holder at the time, that the premises was providing unauthorised late-night refreshment at 23:50.

On 4th May 2024, a test purchase was undertaken by the Noise and Nuisance team, and the premises passed.

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 2 pages 7 and 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 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 Policy 1 page 18 of the SLP states that applicants are expected to undertake a local area risk assessment as part of any licensing 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.’

The Licensing Authority notes the contents of these paragraphs from the Secretary of State’s Guidance and, in particular, the use of the word ‘expected’. Licence applications that do not in any way address the contents of these paragraphs in their operating schedules may be returned to the applicant as ‘incomplete’.

5.4 Policy 3 pages 21 and 22 of the SLP states the Licensing Authority may consider specific restrictions on hours of sale and operation in certain circumstances. 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 (Takeaways)	Fri – Sat 01:00 Sun – 00:00	Fri – Sat 01:00 Mon - Thurs 00:00 Sun – 23:00	Not considered Appropriate

5.5 Policy 4 pages 22 and 23 of the SLP states the Licensing Authority will have regard to cumulative impact generally during the duration of this policy. 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 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.

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

Premises that produce disorder, threaten public safety, generate public nuisance or threaten the well being 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.

Enforcement will be focused on premises or persons found to be failing to promote the four Licensing Objectives. Additionally, Trading Standards officers may, at times and based on intelligence received, carry out underage test purchasing in areas where the intelligence has highlighted potential hotspots in the borough for underage sales.

5.7 Policy 11 pages 29 and 30 of the SLP states that the Licensing Authority expects that any licence applicant will give due consideration to the needs of Hammersmith & Fulham residents and any negative impacts from licensable activities and business operations. with reference to taking place in their premises and how these may impact in the direct locality and further afield.

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.

5.8 Policy 13 pages 31 and 32 of the SLP 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.

5.9 Policy 14 pages 32 and 33 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.

Since the last Statement of Licensing Policy there have been an increasing number of applications for licences relating to delivery services, these tend to fall into three groups:

- Premium specialist product mail-order type services;
- Food delivery services (both meal and grocery) that include alcohol delivery but are primarily food lead; and,
- Convenience type alcohol delivery services that are targeted at convenience for those drinking at home.

In particular the Licensing Authority has concerns with the potential for the following:

- The safety of delivery drivers at the point of delivery;
- Safety of the premises from which orders are taken and sent out for deliver; and,
- Possible public nuisance and anti-social behaviour (ASB) caused by delivery drivers collecting deliveries from the licensed premises.

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:

- 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.
- 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.

5.10 Policy 16 of pages 33 and 34 of the SLP states that the Licensing Authority expects licence applications to specifically include measures to ensure the safety of women and girls in licensed premises.

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.

As part of the Government's and the Council's Violence Against Women and Girls Strategy, venues may also wish to consider boosting their security measures e.g. the recruitment and training of additional door security staff, particularly female staff.

The Council are proud supporters of the Women's Night Safety Charter and we would like to encourage all our licensed premises to consider how you and your business can contribute to making your workplace and H&F a borough where all women feel confident and welcome whenever and wherever they happen to be. The Women's Night Safety Charter is a voluntary pledge to show you take women's safety seriously. By signing the Charter, you show your acknowledgement of the issue and that you're ready to get proactive in improving women's safety.

5.11 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.
- q) **prevention of theft** - using bag hooks and signage to warn customers of pickpockets and bag snatchers.

5.12 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:

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.
- 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.

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

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.