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## **APPENDICES**

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## 1. THE APPLICATION

On the 10 February 2022, Kumi Ltd (“the applicant”) submitted an application to vary the premises licence in respect of premises known as Boys N Berry, located at 839 Fulham Road London SW6 5HQ.

### 1.1 Current Hours of Operation

The premises currently benefit from a premises licence. The current premises licence permits the following:

#### **Sale of Alcohol – On the Premises Only**

Monday to Sunday 11:00 - 23:00

#### **The opening hours of the premises:**

Monday to Sunday 07:00 - 23:30

A copy of the current premises licence and plan can be seen on pages 9-21 of this report.

### 1.2 Application Requested

The applicant has applied to vary the premises licence to extend the areas for the sale of alcohol on the premises to include the patio area. These changes shall only cover the ground floor and there shall be no changes to the basement floor. Additionally, based on the application form, the opening hours of the premises shall be Monday to Sunday from 07:00 to 23:00.

No other changes to the permitted hours, activities or conditions are sought or implied.

A copy of the application form and new plan can be seen on pages 22-32 of this report.

### 1.3 Applicants Operating Schedule

The applicant has proposed no additional steps to those already shown on the premises licence to promote the four licensing objectives if the application is granted.

## 2. BACKGROUND

The main access to the premise’s unit is located on Fulham 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 33-34 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Fulham Road area. Fulham Broadway tube station is a 15-minute walk away and Parsons Green tube station is a 7-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 from Noise and Nuisance objecting to the licence variation application. A copy of this representation can be seen on pages 35 of this report.

### **4. OTHER INFORMATION**

#### **4.1 Enforcement History**

On 22 October 2021 an inspection sheet was left at the premises as a warning letter following several breaches of licence conditions ascertained during a full licensing inspection undertaken at the premises.

#### **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 5.1 page 12 of the Statement of Licensing Policy (“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 and nuisance; and
- Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

**5.2** Section 5.3 page 12 and 13 of the SLP states that in determining representations to an application which incorporates an external area to the premises, the licensing committee might decide that the circumstances are such that a restriction on hours in that area is the only appropriate means to achieve the promotion of the Licensing Objectives.

**5.3** Section 5.4 page 13 of the SPL states that the Licensing Authority advises applicants that it would be beneficial if a lawful planning use can be demonstrated for the activities proposed in all applications for premises licences.

**5.4** Section 8.1 page 15 of the SLP states that the Licensing Authority will require applicants to detail in their operating schedule the steps proposed to ensure the deterrence and 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.

**5.5** Section 8.10 page 16 of the SLP states that it is important that staff working at off licences are suitably trained and receive appropriate refresher training in their responsibilities under the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- The likelihood of any violence, public order or policing problem if the licence is granted;
- The measures taken to control admission to the premises, and to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises, where and to the extent that these matters are within their control.
- Past conduct and prior history of complaints against the premises;
- Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
- Any relevant representations.

**5.6** Section 9.6 page 18 of the SLP states that the Licensing Authority will, where appropriate, attach conditions to a licence to ensure public safety, dealing with, but not limited to. the following:

- 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;
- 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 use of door supervisors to manage the entrance and exit from the premises and to protect public safety as customers leave the premises; and
- The provision of air conditioning and ventilation.

**5.7** Section 10.3 page 19 and 20 of the SLP states that the Licensing Authority will particularly consider the following matters where they are material to the individual application:

- One of the most common complaints the Licensing Authority receive is about nuisance caused by customers as they leave licensed premises at night. 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.

- The proximity of residential accommodation;
- The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;
- 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;
- The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance late at night and/or in the early hours of the morning. However nuisance can arise at any time of the day or night so the Licensing Authority will consider representations from Responsible Authorities and/or Interested Parties relating to potential nuisance from any activity at all times dependant on the merits of the application/steps taken or proposed to prevent nuisance.
- Limiting the number of people permitted to use a garden/other open-air areas, including those for the use of smoking, at any one time.
- Restricting the use of a garden/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).
- 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;
- The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;
- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;
- The delivery and collection areas and delivery/collection times;
- The siting of external lighting, including security lighting that is installed inappropriately;
- The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licence holder;
- The history of the applicant in controlling anti-social behaviour and preventing nuisance;
- The generation of odour, e.g. from the preparation of food;
- Any other relevant activity likely to give rise to nuisance;
- Any representations made by the Police, or other relevant agency or representative;

## **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.