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## 1. REVIEW APPLICATION

On 23 June 2022, an application for a review of a premises licence under section 51 of the Licensing Act 2003 was served by Mr Adrian Overton on behalf of the Licensing Authority. The review application is in respect of the premises known as the Chelsea Lodge, 562 King's Road, London SW6 2DZ. At the time the application was received, Chelsea Lodge Holdings Ltd was the licence holder.

The application for a review of the premises licence was made on the grounds of prevention of crime and disorder, public safety, prevention of public nuisance as well as protection of children from harm following an incident which took place on 26 March 2022 that concerned a child and three other females who had to be admitted to hospital after visiting the premises.

Mr Overton on behalf of the Licensing Authority details in the review that there were serious management failures on the day in question, not least by allowing access to a child, but also by allowing customers to consume so much alcohol that they had to be admitted to hospital. According to the review application, the licence holder has taken immediate steps to dismiss the manager on duty that day, but the Licensing Authority still have concerns that the premises will not be able to safely and effectively manage events which take place during the daytime.

Mr Overton requests that the Licensing Sub-Committee considers adding a number of conditions to the licence to ensure that the premises changes its operation during the day as well as reduce the terminal hours of the premises. These amendments and conditions aim to ensure the safety of customers who use the venue in future, and also reduce the effect of noise / ASB caused by the premises later in the evening.

A copy of the review application and supporting documentation can be seen on pages 14-41 of this report.

## 2. CURRENT LICENCE

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

### **Performance of Dance -Indoors Only**

Monday	09:00 - 00:00
Tuesday	09:00 - 00:00
Wednesday	09:00 - 00:00
Thursday	09:00 - 00:00
Friday	09:00 - 02:00
Saturday	09:00 - 02:00
Sunday	09:00 - 00:00

### **Performance of Live Music -Indoors Only**

Monday	09:00 - 00:00
Tuesday	09:00 - 00:00
Wednesday	09:00 - 00:00

Thursday	09:00 - 00:00
Friday	09:00 - 02:00
Saturday	09:00 - 02:00
Sunday	09:00 - 00:00

#### **Playing of Recorded Music -Indoors Only**

Monday	09:00 - 00:00
Tuesday	09:00 - 00:00
Wednesday	09:00 - 00:00
Thursday	09:00 - 00:00
Friday	09:00 - 02:00
Saturday	09:00 - 02:00
Sunday	09:00 - 00:00

#### **Entertainment Similar to Music or Dance -Indoors Only**

Monday	09:00 - 00:00
Tuesday	09:00 - 00:00
Wednesday	09:00 - 00:00
Thursday	09:00 - 00:00
Friday	09:00 - 02:00
Saturday	09:00 - 02:00
Sunday	09:00 - 00:00

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

Monday	23:00 - 00:00
Tuesday	23:00 - 00:00
Wednesday	23:00 - 00:00
Thursday	23:00 - 00:00
Sunday	23:00 - 00:00

#### **Sale of Alcohol On and Off the Premises**

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 02:00
Saturday	11:00 - 02:00
Sunday	11:00 - 00:00

#### **Hours premises open to the public**

Monday	09:00 - 00:30
Tuesday	09:00 - 00:30
Wednesday	09:00 - 00:30
Thursday	09:00 - 00:30
Friday	09:00 - 02:30
Saturday	09:00 - 02:30
Sunday	09:00 - 00:30

A copy of the current premises licence can be seen on pages 42-56 of this report.

### **3. BACKGROUND**

There has been a premises licence in place at this address since September 2005. This licence was transferred to Chelsea Lodge Holdings Ltd in February 2020. A further, shadow licence application, was made by the landlords of the premises (Ei Group Ltd) in May 2022. This application sought to replicate the licence in place however the application has been withdrawn.

On 23 June 2022 an application for a Minor Variation was submitted by Chelsea Lodge Holdings Ltd to add conditions to the licence as agreed with the Hammersmith and Fulham Police Licensing Unit. This application with reference number 2022/00975/LAPR was granted on 08 July 2022. A copy of the current licence can be seen on pages 42-56 of this report.

Mr Chase Marco Matthias McGuinness is the current Designated Premises Supervisor ("DPS") and has been the DPS responsible for the sale of alcohol at the premises since 25 July 2018.

The main access to the premises is located on King's Road. There is a mixture of both residential and commercial premises within the area (buffer zone 75m). A map showing the location of the premises and neighbouring licensed premises can be seen on pages 57-58 of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the King's Road area. Fulham Broadway tube station is a 7-minute walk away and Imperial Wharf overground station is an 11-minute walk away from the premises.

### **4. CONSULTATION**

A public notice was displayed by the Council near the premises. A further public notice was displayed by the Council at Hammersmith Town Hall. Details of the application were also published on the LBHF Web Site 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 33 representations from local residents objecting to the review application. A copy of these representations can be seen on pages 59-99 of this report.

The licensing section received one representation from the Noise and Nuisance Authority in support of the review application. A copy of this representation can be seen on pages 100-110 of this report.

The licensing section received one representation from the Fulham Town Ward in support of the review application. A copy of this representation can be seen on pages 111-112 of this report.

The licensing section received one representation from the Fulham Broadway Ward Panel in support of the review application. A copy of this representation can be seen on pages 113-114 of this report.

The licensing section received one representation from the Parsons Green and Walham Ward Safer Neighbourhood Panel in support of the review application. A copy of this representation can be seen on pages 115-116 of this report.

The licensing section received one representation from the Barclay Road Conservation Area Neighbourhood Watch in support of the review application. A copy of this representation can be seen on pages 117-121 of this report.

The licensing section received one representation from the Ei Group Ltd who is the long leaseholder of the premises in support of the review application on the basis that some conditions are added to the premises licence rather than the premises licence being revoked or suspended. A copy of this representation can be seen on pages 122-124 of this report.

The licensing section received 18 representations from local residents supporting the review application. A copy of these representations can be seen on pages 125-144 of this report. On Wednesday 10 August 2022 additional video evidence was submitted by a legal counsel on behalf of these local residents.

## **5. OTHER INFORMATION**

### **5.1 Enforcement History**

On the 5 August 2022, a warning letter was issued in response to ascertained breach of condition 26. Condition 26 requires CCTV footage to be provided to Police within 24 hours of a request. Requests for CCTV footage were made by officers of the Metropolitan Police between 17 December 2021 to 11 February 2022. The reason for the CCTV footage request was to investigate an incident that occurred at the premises on the 09 December 2021. The requested footage was not provided within 24 hours of request.

### **5.2 Licence extensions (“LATEN”)**

Nine LATENs took place in respect of this premises in the past twelve months:

1. Licence extension - 2021/01584/LATEN  
Thursday 9 September 2021 from 00:00 hours until 02:30hours, bars closed at 02:00am.
2. Licence extension - 2021/01214/LATEN  
Sunday 17 October 2021 from 00:00 hours until 03:30hours, bars closed at 03.00am.

3. Licence extension - 2021/00944/LATEN  
Thursday 2 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.
4. Licence extension - 2021/00945/LATEN  
Friday 3 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.
5. Licence extension - 2021/00946/LATEN  
Thursday 9 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.
6. Licence extension - 2021/00947/LATEN  
Friday 10 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.
7. Licence extension - 2021/00948/LATEN  
Thursday 16 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.
8. Licence extension - 2021/00949/LATEN  
Friday 17 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.
9. Licence extension - 2021/00950/LATEN  
Thursday 23 December 2021 from 00:00 hours until 02:30 hours, bars closed at 02:00am.

## **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 145-148 of this report.
- 6.4 The Council's own SLP gives guidance concerning the review of a premises licence.
- 6.5 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".

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

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

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

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

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

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

and girls. The Licensing Authority would also encourage off licensed premises to take part in the Ask for Angela scheme in an effort to increase the visible promotion of the scheme in all licensed premises across the borough.

Implementing these measures, particularly for on-licence premises, providing training for staff to increase awareness and provide skills and tools for identifying and assisting when it is at risk of happening or is happening, and having clear policies against violence against women and girls provide a solid basis for addressing the issue when it occurs in licensed premises. Furthermore, having policies on staff reporting incidents to Police and Council officers will help to ensure that these incidents are addressed.

6.8 Annex 1 page 35 of the SLP in relation to the prevention of crime and disorder 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; 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'.
- c) Operators of off-licences in areas problems relating to street drinking and under age drinking are prevalent, measures should be outlined to strictly monitor the way alcohol is sold, specifically where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- d) It is important to ensure 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:
  - i. The likelihood of any violence, public order or policing problem if the licence is granted;
  - ii. 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.
  - iii. Past conduct and prior history of complaints against the premises;
  - iv. Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
  - v. Any relevant representations.
- 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.



- 6.9 Annex 1 page 35 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.

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

6.10 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. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

6.11 Annex 4 page 52 of the SLP in relation to the grounds for considering a review states 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 amending 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.