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Dear Councillors

Licensing Act 2003
New Premises Licence - Six80 678-680 Fulham Road London SW6 5SA ('The Premises')

We act for the Applicant, The Cock Inn Mugginton Ltd, for a new premises licence at The Premises. We have been instructed to respond to the representations made in relation to this application.

Firstly, the Applicant takes the comments of the residents and other parties very seriously. In fact, agreement has been reached with the Environmental Protection team and Police in relation to the hours applied for and additional conditions to be included on the licence. We have detailed below the amendments to hours and conditions that have been agreed for ease of reference. We understand that Environmental Protection have withdrawn their representation and that the police did not make any representation on this basis of these changes.

Previous Operation

Previously, the premises traded as a bar called Octoberfest. It would appear from council records that the premises has benefitted from a premises licence since 2005, when the new licensing regime came into operation. We understand that this premises licence was surrendered- hence the need to apply for a new premises licence.

The hours on the previous licence permitted the premises to sell alcohol and provide regulated entertainment from 11am to 11pm during the week and to midnight Friday and Saturday. The premises was entitled to remain open until midnight during the week and 1am on Friday and Saturday.

About the Applicants

For what comes next

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The Applicant runs a small group of very successful pubs, offering high quality food and drinks. They have been trading since November 2015 and currently trade The Cow in Dalbury Lees, The Horseshoes Long Lane and The Bluebell Kirk Langley. More recently they owned and operated The Cock Inn Mugginton and The Meynell Ingram Arms which they sold in July of this year. They have had no issues in the operation of these premises and take the licensing objectives seriously in operating any premises.

Whilst this is a first venture into London for the Applicant it should be noted that the licensing objectives are the same across the country and the Applicant has experience of dealing with residents and responsible authorities at their other premises. They pride themselves on building and maintaining excellent relationships with all parties, from customers, to neighbours, to the Responsible Authorities. It is hoped that this will be the case for this premises.

The Application

The intention is to operate a high-end wine bar, with a substantial food offer, including a breakfast offer for locals and visitors to the area. Regulated entertainment has been applied for, however, it is intended that the entertainment offered will be light acoustic style music on a Thursday, Friday and Saturday and possibly a live DJ Friday / Saturday, should there be interest. This would be in keeping with the overall aesthetic and style of operation.

It is intended to invest £600,000 into the premises. It is also expected that once open and operating, the premises will bring in the region of 40 new jobs into the area.

Council Licensing Policy

The Applicant notes the Council's Licensing Policy 3 which sets out licensing hours for various premises.

This premises sits on Fulham Road, which can best be described as mixed use, with bars, cafes, restaurants and retail surrounding it. It should be noted, of course, that there are residential properties, including on the Fulham Road above some of the commercial units, but mainly on the surrounding streets- as is the case for a majority of premises in this area of London.

However, in terms of the hours policy, we submit that the area is best described as 'mixed use'.

The Hours Policy for bars in a mixed-use area suggest a closing time as follows:

- Monday to Thursday midnight
- Friday and Saturday 01:00 hrs
- Sunday 23:00 hrs

Whilst the policy makes it clear that this is only a guideline, it is worth noting that the amended hours as agreed with the responsible authorities (set out below) are below those set out in the Hours Policy for Monday through to Saturday, with only 30 minutes over on a Sunday (closing at 23:30, rather than 23:00). We submit that this is a reasonable and proportionate compromise that has been agreed with the Responsible Authorities.

Amendments to the application

This application has been amended to trim the hours originally applied for, as mentioned above, and to add conditions as set out below.

Licensable activities sought and hours

The performance of Live Music - Indoors Only: Sundays to Wednesdays between 11:00 to 23:00; Thursdays, Fridays and Saturdays between 11:00 to 00:00

The playing of Recorded Music - Both Indoors and Outdoors Sundays to Wednesdays between 08:00 to 23:00; Thursdays, Fridays and Saturdays between 08:00 to 00:00

The Performance of Dance - Indoors Only Sundays to Wednesdays between 19:00 to 23:00; Thursdays, Fridays and Saturdays between 19:00 to 00:00

The provision of Late Night Refreshment - Indoors Only Thursdays, Fridays and Saturdays between 23:00 to 00:00

The Sale of Alcohol - Both On and Off the Premises Sundays to Wednesdays between 11:00 to 23:00; Thursdays, Fridays and Saturdays between 11:00 to 00:00

Opening Hours of the Premises Sundays to Wednesdays between 08:00 to 23:30; Thursdays, Fridays and Saturdays between 08:00 to 00:30

Further, the following additional conditions have been agreed to be added to the licence:

1. High-Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities or customers are on the premises and;
 - shall be checked daily to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and name of the person checking, shall be kept and made available to Police or authorised Council officers on request.
 - at least one camera will show a close-up of the entrance/entrances to the premises, to capture a clear, full length image of anyone entering.
 - shall cover any internal or external area of the premises where licensable activities take place.
 - recordings shall be in real time and stored for a minimum period of 31 days with date and time stamping.
 - footage shall be provided to Police or authorised council officer within 24 hours of a request.
 - a staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times. This staff member will be able to show police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested. This data or footage reproduction shall be almost instantaneous.
2. A refusals record shall be kept at the premises to record details of all refusals to sell alcohol. This record shall contain the date and time of the incident, a description of the customer, the name of the member of staff who refused the sale, and the reason the sale was refused. The record shall be made to police and authorised officer of the Licensing Authority on request.
3. All staff working at the premises shall be given compulsory training on the following issues: Welfare and Vulnerability engagement (WAVE), Ask for Angela, Drink Spiking and Safeguarding. Written records of this training, and a policy to cover each of these topics, shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.



4. A challenge 25 proof of age scheme for the sale of alcohol shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
5. On days where the premises are open after 23:00 there shall be 1 SIA on duty from 20:00 until close. The requirement for additional for SIA shall be continually risk assessed by the premises. A copy of the risk assessment shall be kept for a minimum of 31 days and made available to Police or the Local Authority upon request
6. All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Written records of this training shall be retained and made available to police and authorised officers of the Licensing Authority on request.
7. Any alcohol sold for consumption off the premises shall be sold in a sealed container. Patrons are permitted to take from the premises resealed bottles of wine.
8. On days when Fulham Football Club are playing at home the premise shall not allow any drinking, or provision of food, in any area outside the front of the premises for three hours before the advertised kick off time until one hour after the match has been completed. All tables and chairs will be removed from this external area during this same time period.
9. A daily incident log shall be kept at the Premises and made available on request to an authorised officer of the Council or the Police or the Fire Service which shall record the following:
 - (a) all crimes reported to the venue
 - (b) all ejection of patrons
 - (c) any complaints received
 - (d) any incidents of disorder
 - (e) seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
10. The premises shall operate a dispersal policy and all staff shall be trained in its implementation
11. The external area at the front of the premises shall not be used after 22:00 any day of the week with the exception of smokers for smoking only.
12. All external doors and windows shall be kept closed at all times during the provision of regulated entertainment, save during access and egress.
13. A responsible member of staff shall carry out proactive noise assessments outside the premises at the boundary of the nearest residential property periodically during the provision of regulated entertainment and take any necessary remedial action.
14. A written record of proactive external noise assessments and, where applicable, remedial actions taken shall be kept for a minimum of 31 days from the date of the last

entry in the record and this record shall be available for inspection on demand by authorised Council officers at all times the premises are open.

15. All stereo / television or other audio equipment including wall-mounted and / or free-standing / portable speakers shall be mounted on anti-vibration mountings / pads, as appropriate, to prevent vibration transmission of sound energy to adjoining properties.

Resident concerns

The Applicants have given serious consideration to the concerns raised by the residents making representations.

We note the concerns raised in relation to drink spiking and would refer the residents to the following condition number 3, above, agreed with the police. The Applicant feels that this adequately deals with the concerns around drink spiking raised.

In relation to music outside, we note the comments about the use of the external area to the front of the premises. It is intended that the frontage of the bar will be open in the spring / summer and speakers will provide piped music to those seated outside -obviously within required noise limits. Whilst any music is likely to be no more than background levels (which is not licensable), it was felt that applying for recorded music inside and outside was appropriate so as not to be 'hiding' any intention in this regard.

We would also point the residents to the conditions 11 to 15 above agreed with the environmental protection officer.

These conditions, taken together, restrict the likelihood of noise nuisance particularly during the later hours where noise is more likely to be a public nuisance. These conditions should therefore prevent the need for a noise limiter or other proposed measures set out in the residential objections. Should these conditions be breached then the residents would have a direct remedy of reviewing the premises licence.

The Applicant is also **willing to offer the following additional condition** in this regard:

- A dispersal policy shall be drawn up and implemented at the premises ('The Policy'). The Policy will set out the steps that management will take to ensure that customers leave the premises quickly and quietly and do not loiter outside. The Policy shall be retained and made available to police and authorised officers of the Licensing Authority on request.

In relation to the proposed conditions that have been agreed with the police, we submit that any additions to these would be disproportionate. Whilst all major crimes and incidents of serious disorder would, of course, be notified to the police at the time, police forces cannot respond to minor incidents, especially at busier times. Condition 9, above, has been agreed with the police and the requirement to keep records and to allow inspection by officers is a tested means of ensuring that premises are managing incidents properly and proportionately.

Para 2.1 of the Guidance under S182 Licensing Act 2003 states that 'Licensing Authorities should look to the police as the main source of advice on crime and disorder.' It is respectfully submitted that in agreeing conditions with the police in relation to matters of crime and disorder, modifying these as suggested by residents would be a step too far in the circumstances.

In relation to the proposal for a '5&5' condition in relation to use of the smoking area (we presume after 22:00 hours as the time agreed with the authorities that only smokers will be



allowed outside), We respectfully submit that this is disproportionately restrictive and very difficult to enforce, without a dedicated member of staff on duty outside. That in and of itself would be prohibitively expensive and we would question whether it is proportionate. For these reasons, we respectfully submit that the current restriction on smokers only outside after 22:00 is reasonable and proportionate.

Likewise, it is felt that resident proposals requiring all sales of alcohol to be ancillary to food, a restriction on vertical drinking and waiter/ waitress service, all of which have been suggested, fundamentally change the nature of the offer without any evidence to suggest that these draconian conditions are necessary or proportionate in the circumstances.

In relation to litter patrols, as the premises will not be selling hot food to take away and consume immediately outside the premises, a condition requiring the Applicant to undertake regular litter patrols outside is again disproportionate. The Applicant is, however, happy to **commit to the following as a condition:**

- Prior to opening to the public each day, the area to the immediate front of the premises will be swept clean of litter.

Deliveries

Deliveries, in the context of licensed premises includes deliveries to the premises, as well as potential deliveries to customers. Whilst the Applicant appreciates that environmental concerns are very much at the forefront of most people's thinking, the issue of what vehicles are permitted into a certain area is a much wider council matter and not a matter for regulating on an premises by premises basis under the licensing regime- where many premises on the same street would not hold licences. We would question the value of effectively placing a higher burden of operation on one premises than for all others in the area. Any more general regulation affecting the wider area in relation to the type of vehicles permitted to deliver to the premises or from the premises, would of course be complied with.


In relation to home deliveries, businesses have all needed to learn to adapt and to ensure that should something similar to the pandemic of 2020 to 2022 occur again, they are able to flex and continue to trade. The proposal of conditions on what vehicles could collect and deliver, would mean that in practical terms, a third-party delivery company would not be able to be engaged to undertake any deliveries as they cannot guarantee that all their delivery personnel have such vehicles.

For these reasons we would respectfully ask the Committee not to place any additional burdens on the operation of the premises in this regard.

Conclusion

The Applicant has demonstrated their desire to work with all parties, which has resulted in a reduction of hours from those proposed originally (and were permitted under the previous premises licence at the premises) and the agreement to a significant number of conditions being added to the premises licence. Further, and after careful consideration of the resident concerns, the Applicant has proposed the following two additional conditions:

- A dispersal policy shall be drawn up and implemented at the premises ('The Policy'). The Policy will set out the steps that management will take to ensure that customers leave the premises quickly and quietly and do not loiter outside. The Policy shall be retained and made available to police and authorised officers of the Licensing Authority on request.

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- Prior to opening to the public each day, the area to the immediate front of the premises will be swept clean of litter.

It is felt that taken in the round, the amended application and new conditions promotes the licensing objectives whilst giving protections to all parties in a proportionate and appropriate manner. We ask that the application is therefore granted as amended with the addition of the proposed two new conditions.

Yours sincerely



Piers Warne
Legal Director
for TLT LLP