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1. THE APPLICATION

On 25th August 2022, Mr Robert Radojcic (“the applicant”) submitted an application to vary the premise licence in respect of the premises known as Fulham Kitchen, 228 Munster Road, Fulham, London, SW6 6AZ.

1.1 Current Hours of Operation

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

Performance of Live Music -indoors only

On the last Saturday of each month 20:00 -00:00

Playing of Recorded Music -indoors only

Monday to Saturday	11:00 - 23:00
Sunday	12:00 - 20:00

Sale of Alcohol On and off the Premises

Monday to Saturday	11:00 - 23:00
Sunday	12:00 - 20:00

Non-standard timings and seasonal variations:

On the last Saturday of each month 11:00-00:00

The opening hours of the premises

Monday to Saturday	11:00 - 23:00
Sunday	08:00 - 20:00

Non-standard timings and seasonal variations:

On the last Saturday of each month 11:00-00:00

A copy of the current premises licence and plan can be seen on pages 34-45 of this report.

1.2 Application Requested

The applicant has applied to vary their premise licence to remove condition 11 as outlined below:

The terrace will be closed and patrons requested to come inside the main structure of the premises at 22.00pm hours.

All other activities and timings to remain the same as the current licence.

A copy of the application form can be seen on pages 46-55 of this report.

1.3 Applicants Operating Schedule

The applicant has proposed a number of additional steps to promote the four licensing objectives if the application is granted. A copy of the proposed conditions can be seen on page 51-52 of this report.

2. BACKGROUND

The main access to the premise's unit is located on Munster 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 56-57 of this report.

There are several options for transport away from the area including buses and taxis which run from on and around Munster Road. Fulham Broadway tube station is a 16-minute walk away, Parsons Green tube station is a 18-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 Cllr Dominic Stanton objecting to the licence application. A copy of the representation can be seen on pages 58 of this report.

The licensing section received one representation from Cllr Alford Adronie objecting to the licence application. A copy of the representation can be seen on pages 59 of this report.

The licensing section received one representation from a local resident objecting to the licence application. A copy of the representation can be seen on pages 60 of this report.

4. OTHER INFORMATION

4.1 Enforcement History

- On the 31 October 2019 and 06 February 2020, inspection sheets were left at the premises as warning letters following breaches of conditions observed during full licensing inspections undertaken at the premises.
- On the 17 June 2020, a Prohibition Notice was served under Regulation 8(2) of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (the Regulations).
- On the 13 May 2021, a Fixed Penalty Notice was served under regulation 12(1) of The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (the "Regulations").
- On the 23 July 2021, a warning letter was issued following a substantiated breach of condition that was observed on the 07 and 11 July 2021.

- On the 09 September 2021, a warning letter was issued following substantiated breaches of conditions that were observed on the 28 August 2021.

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 pages 12 and 13 of the Statement of Licensing Policy (“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.

5.2 Policy 3 page 21 of the SLP in relation to licensing hours 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:

- 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.

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 Policy 11 page 29-30 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 night time 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.

5.4 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'.
- 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.
- 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.
- j) CCTV - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment
- o) **excessive drinking** - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.

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.

5.6 Annex 1 pages 38 to 40 of the SLP in relation to the prevention of public nuisance states that 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.
- vi. Limiting the number of people permitted to use a garden or other open-air areas, including those for the use of smoking, at any one time.
- vii. Restricting the use of a garden or 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)
- 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;
- xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- 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.

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 40 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.

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.