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1. THE APPLICATION

On 30th August 2022, Russian Food Import Limited (“the applicant”) submitted an application to vary the premise licence in respect of the premises known as Dacha Shop, 645 Fulham Road London SW6 5PU.

1.1 Current Hours of Operation

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

Sale of Alcohol off the Premises

Monday to Sunday 10:00 – 21:00

Non-standard timings and seasonal variations:

Each year from 18th until 31st December 08:00 to 22:30

Each year 1 week prior to Easter Sunday 08:00 to 22:30

The opening hours of the premises

Monday to Sunday 10:00 - 21:00

Non-standard timings and seasonal variations:

Each year from 18th until 31st December 08:00 to 22:30

Each year 1 week prior to Easter Sunday 08:00 to 22:30

A copy of the current premises licence and plan can be seen on pages **81-91** of this report.

1.2 Application Requested

The applicant has applied to vary their premise licence to remove condition 10 as outlined below:

10. Only wine and spirit products shall be available.

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

A copy of the application form can be seen on pages **92-101** of this report.

1.3 Applicant’s Operating Schedule

The applicant has proposed further additional steps to promote the four licensing objectives if the application is granted. A copy of these steps can be seen on pages **97-98** of this report

On the 9th September 2022, following correspondence received from the Police, the applicant agreed to add extra conditions to their licence if granted. A copy of this amendment and relevant correspondence can be seen on pages **102-105** of this report.

Agreed Conditions:

1. On days when Chelsea football club are playing at home, or a Chelsea Football Club victory parade takes place, the premise shall not sell alcohol Three (3) hours before the advertised kick off time until One (1) hour after the match has been completed.
2. Signs shall be clearly displayed at prominent positions in the premise informing patrons that alcohol is not for sale during Home Chelsea Football fixtures.
3. Strong beer, lager, cider and stout above 5.5% ABV shall not be displayed or sold.

In light of the applicants agreement to proposed condition 1 and 2 above the police are proposing that these conditions replace condition 7 currently listed on the premises licence in relation to the sale of alcohol on Chelsea Football match days.

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 **106-107** of this report.

There are several options for transport away from the area including buses and taxis which run from on and around Fulham Road. Parsons Green tube station is a 4-minute walk away. Fulham Broadway tube station is a 5-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 four representations from local residents objecting to the licence application. A copy of these representations can be seen on **pages 108-115** of this report.

In response to representations the applicant provided a letter to be circulated to the local residents. This can be seen at pages **116-117**.

4. OTHER INFORMATION

4.1 Enforcement History

- 26.04.2022 – warning letter issued for breach of condition 8 substantiated on the 22.03.22 Following this a minor variation to remove condition 8 was granted.
- 8. The premises licence shall only authorise the sale of alcohol as ancillary to the primary use of the premises as a designer retail shop. Designer clothing,

accessories and art objects shall be available for sale throughout the hours for the sale of alcohol.

- 24.08.2022 – warning letter issued for breach of condition 10 substantiated on the 17.08.22.
- 10. Only wine and spirit products shall be available.

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.

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
Off-licences and alcohol sales in supermarkets	23:00 daily	23:00 daily	22:00 daily

5.3 Policy 4 pages 22 and 23 of the SLP states that 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:

- 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.

5.4 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.

5.5 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'.
- 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.
- 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.

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.

5.7 Annex 1 pages 40- 41 of the SLP in relation to the protection of children from harm states The protection of children from harm 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. This is expected to include:

a) The legislation recognises the right of licence holders (serving alcohol) to allow accompanied children into their premises at any time. The Licensing Authority will not normally seek to limit their access (above that specified in the Act) to any premises unless it is necessary for the prevention of physical, moral or psychological harm, or where there are concerns about child sexual exploitation. Where this is considered likely, upon consideration of a relevant representation, conditions will be imposed that restrict children from entering all or part of licensed premises:

- i. At certain times of the day;
- ii. When certain licensable activities are taking place;
- iii. Under certain ages, e.g. 16 or 18;
- iv. Unless accompanied by an adult.

b) The Licensing Authority will particularly consider whether:

- i. There is entertainment or services of an adult nature commonly provided;
- ii. There have been convictions, Penalty Notices for Disorder (PND) or cautions for serving alcohol to minors or premises with a reputation for under-age drinking;
- iii. There is a known association with drug taking or dealing;
- iv. There is a significant element of gambling on the premises;
- v. There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
- vi. There are licensable activities that are likely to appeal to minors/children under 16 taking place during times when children under 16 may be expected to be attending compulsory full-time education;
- vii. There have been representations from police, the Local Safeguarding Children Board, Trading Standards or other relevant agency or representative.
- ix. There are measures/training for staff on how to deal with suspected truanting school children on the premises and how to recognize signs of potential child sexual exploitation.

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.