

## LICENSING CONSULTATION INTERNAL MEMO

To : **Elisha Collins**

From : **Adrian Overton**

Date : **8<sup>th</sup> December 2022**

Premises : **Broadway Food and Wine, 51 Fulham Broadway, SW6 1AE**

CAPS Ref : **2022/01898/LAPR**

Application : **New premises licence**

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I am the Licensing Policy and Enforcement manager for the London Borough of Hammersmith and Fulham. I am also able to act as the responsible authority for the Licensing Authority of the London Borough of Hammersmith and Fulham.

I have considered the above application and wish to make a representation on the basis of past adverse enforcement history at this premises which has been outlined below.

### **The application**

On 10<sup>th</sup> December 2022 Mr Prabakaran Shanmugaratham applied for a new premises licence in respect of Broadway Food and Wine, located at 51 Fulham Broadway London SW6 1AE.

The following activities were included on the application:

- Sale by retail of alcohol off the premises - Monday to Sunday: 10:00 - 23:00
- Hours open to public: Monday to Sunday 08:00 - 02:00

### **Supporting Information - Enforcement summary**

This premises has been the subject of previous adverse enforcement history over the last 2 years, with some of the original offences taking place in 2017. The licence was originally reviewed asking for revocation in October 2018, after multiple licensing breaches and the sale of alcohol to a child. This revocation was granted by the Sub-Committee in December 2018.

The decision was then appealed early in 2019 and in July 2019 a consent order was agreed on the basis that the two individuals who managed the premises previously should not be involved in any licensable activities at the premises –Mr Sinnathurai

and Mrs Nageswary Shanmugaratnah were specifically named in a condition which was then added to the licence.

During an inspection in January 2020 one of the individuals (Mrs Nageswary Shanmugaratnah) was found selling alcohol behind the counter. This person was also seen on CCTV purchasing alcohol from someone who the Police later identified as a known shoplifter. The licence was therefore reviewed again in May 2020 (asking for revocation) but the hearing did not take place until July 2020 due to Covid.

The licence was revoked for the second time in July 2020 and subsequently appealed again. Further Licensing and Trading Standards breaches were found in August 2021 which were also used in evidence for the appeal. On the 12<sup>th</sup> November 2021 the Magistrates' Court dismissed the appeal on all counts and upheld the Council's decision to revoke the premises licence in July 2020.

A new application was made by Mr Shanmugaratham (the current applicant) in November 2021, which was refused by the licensing sub-committee in January 2022. No appeal was made on this occasion.

### **Conclusion**

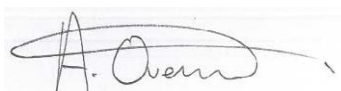
Given the previous extensive enforcement history at this premises the Licensing Authority wishes to make a representation against this application, as we have concerns that there will be a similar pattern of non-compliance at the premises in the future.

Whilst we appreciate that current applicant (Mr Shanmugaratham) was not previously named on the licence, we are concerned that the previous owners will still have some level of influence and involvement with the business in the future. This concern is compounded by the fact that the current applicant is a close family contact of Mr Sinnathurai (the previous licence holder) and Mrs Nageswary Shanmugaratnah.

For this reason, if the committee does decide to grant this application, we would ask that the licence is time limited for 12 months. Therefore, if there are further enforcement issues at the premises, these can be raised when a new licence is applied for in a years time.

We would also ask that the conditions attached at Appendix 1 of this representation are added to any new licence, to minimise any adverse impact on the four licensing objectives.

Please note that the applicant has suggested a number of conditions in their operating schedule which we would also expect to be added onto any licence granted.



**Adrian Overton**  
**Licensing Policy and Enforcement Manager**  
**London Borough of Hammersmith and Fulham**

## **APPENDIX 1**

### **Suggested conditions**

1. The premises licence be time limited for a period of 12 months from the date it is granted.
2. The following people are not to be employed in any capacity of the business at the premises or involved in the management of licensable activities at the premises either directly or indirectly. Suganthan Sinnathurai, Mr Thayalan Ratnam and Mrs Nageswary Shanmugaratnam.
3. The following people are not to enter the premises at any time in any capacity whilst licensable activities are taking place. Suganthan Sinnathurai, Mr Thayalan Ratnam and Mrs Nageswary Shanmugaratnam.
4. For a period of twelve months from the date the licence is granted, all staff training shall be provided by a professional licensing agent or the Council's Trading Standards team.
5. There shall be a minimum of one personal licence holder on duty at the premises at all times when the premises are authorised to sell alcohol.
6. Strong beer (including lager stout, ale etc) and cider above 5.5% ABV shall not be displayed or sold.
7. An incident log (electric or paper based) 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 visit by a relevant authority or emergency service

The incident record shall be kept on the premises and be available for inspection by the Police or authorised officers of the Licensing Authority at all times the premises is open.

8. The Premises shall maintain a lost property record. As a minimum this will include details of type of property, imei numbers of mobile phones, personal details attainable and restoration efforts. This will be available to the Police or authorised officers of the Licensing Authority upon request.
9. The Licence Holder shall require staff to note any refusals in a refusals log. The refusals log shall record the date and time of the refusal; the name of the staff member refusing; and the reason for refusal. It must be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection upon request by the Licensing Team, Police or Trading Standards.

10. No customers carrying open alcoholic drinks shall be permitted on the premises.
11. No alcoholic goods or tobacco products shall be purchased or taken from persons calling to the shop.
12. The Licensee shall report to Trading Standards and Police any instance of a caller to the shop attempting to sell alcohol or tobacco products within 24 hours.
13. Any alcohol sold for consumption off the premises shall be sold in a sealed container.
14. All staff responsible for selling alcohol shall receive relevant training before making any unsupervised sales. The training shall include:
  - the Licensing Act 2003 in terms of the licensing objectives and offences committed under the Act;
  - the conditions of the Premises Licence;
  - the sale of age-restricted products.
  - proxy sales
  - conflict management

Age-restricted products training shall cover the following steps: the assessment of age; how and when to challenge for proof of age; acceptable proof of age and how to check; and recording refusals. This training will be refreshed at least every six months. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

15. All staff responsible for selling alcohol shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.
16. The premises shall use a till operation system which provide an ID confirmation prompt when alcohol is scanned.
17. No person shall be allowed to work at the Premises unless they have and are able to demonstrate the right to work in the United Kingdom.
18. Right to work checks shall be carried out by or on behalf of the licensee on all persons that are carrying out work within the Premises, whether paid or otherwise, temporary or permanent, before those persons commence work. The documentation for each employee shall include: date stamped colour copies of all documents produced, the name of the person who has checked the original documents and confirmation that the said person has seen the original documents, any enquiries made and a right to work checklist with the relevant box (es) ticked. This information shall be retained in each case

(whether they have carried out or are still carrying out work within the Premises) for a minimum of 3 years. Such copies to be kept on the Premises and made available within 24 hours of the request being made for inspection by police, licensing or immigration officers.

19. Right to work audits of all persons working at the Premises shall be carried out at least annually, with records of the said audits to be retained for a period of at least 3 years and made available within 24 hours of the request being made for inspection by police, licensing or immigration officers.
20. No worker within the Premises shall be paid less than the prevailing statutory minimum wage.
21. A written contemporaneous record shall be maintained on the Premises, detailing the hours worked by all persons (paid or unpaid). Such record shall as a minimum cover the previous 8 working weeks and must be produced within 24 hours of the request being made by an officer of the Licensing Authority, a Police Officer or a Home Office Immigration Officer.
22. Invoices (or copies) for all alcoholic goods on the premises shall be retained for 12 months after the date of purchase and shall be made available to officers from the Council, Police or HMRC upon request.
23. The Premises shall not sell any item that may reasonably be expected to be used for the preparation or consumption of illegal drugs. This will include grinders; pipes and other items commonly used for smoking products other than legal tobacco or herbal products; and nitrous oxide cannisters.
24. All alcohol kept in the public part of the premises shall be kept in display units.
25. All display units for alcohol shall have lockable shutters.
26. Shutters shall be closed and locked at the end of the permitted hours for the sale of alcohol, and shall not be unlocked again whilst the premises is open until the start of the permitted hours on the following day